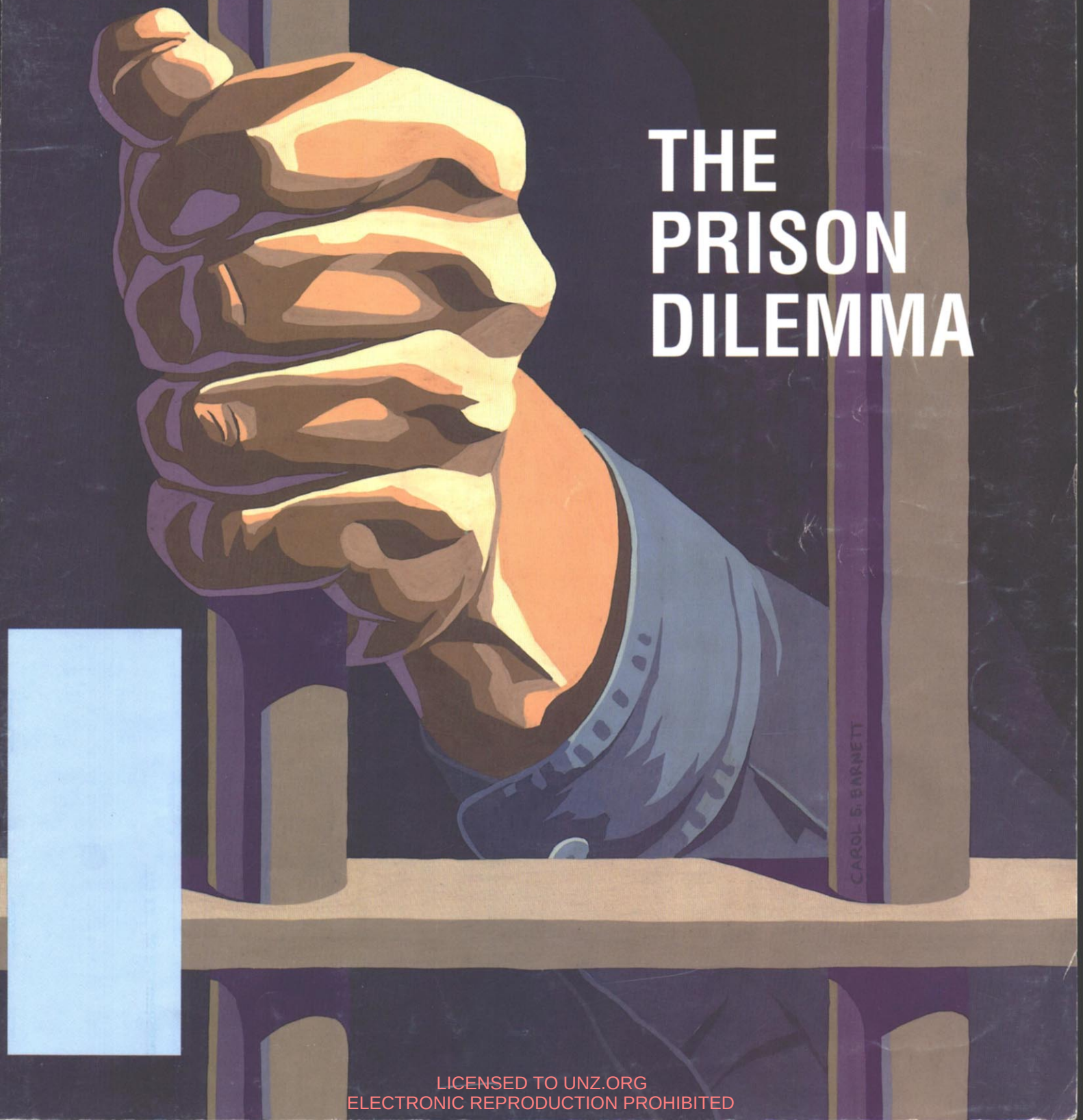
June '94 Propositions

April 1994 $3.95

California JOURNAL

Independent analysis of politics and government



THE PRISON DILEMMA

CAROL S. BARNETT

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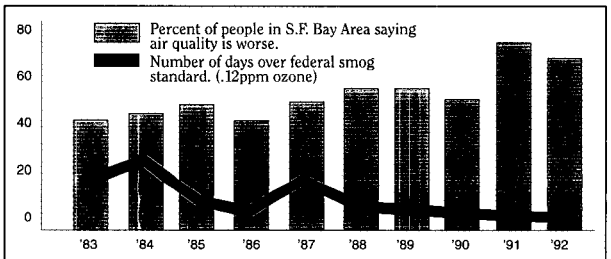
For starters, refinements in gasoline — and advances in auto engine technology — have helped to bring down the number of smog days in many American cities. In 1992 (1993 data aren't in yet) we actually saw the lowest levels of smog in over 10 years.*

With the introduction of Reformulated Gasoline, (due in all of California in 1996), emissions will be cut even further. About 15%. Maybe even more.

However, the gap between perception and reality often remains vast.



PERCEPTION: Many people believe smog is getting worse.
REALITY: In San Francisco, and many cities across the U.S., smog is being reduced.

sources: Bay Area Air Quality Management District (smog levels); Bay Area Poll/Bay Area Council & KQED (perceptions). Published, San Francisco Chronicle 8/26/93

For example, a look at the graph illustrates that progress against smog in the Bay Area was very encouraging. Yet, many people, in most years, believed smog was actually getting worse.

The reality: Many people across America can look forward to a cleaner, brighter future.

Does that mean we should stop now? Abandon efforts in other areas? Not at all. There is good work that needs to continue.

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**EPA report: "National Air Quality Emissions Trends 1992," published 10/93*

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APRIL 1994
VOLUME XXV, NUMBER 4

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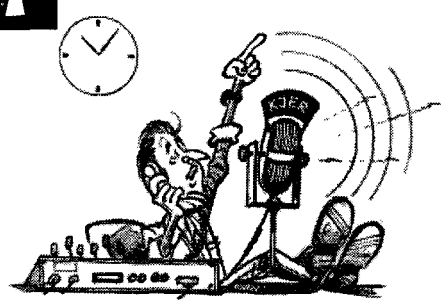
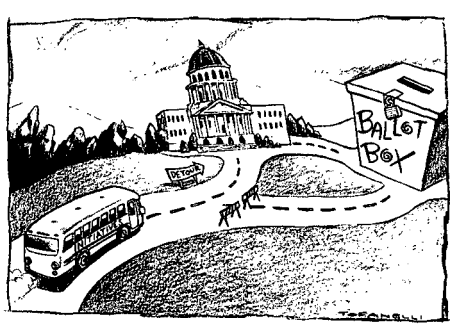


ELECTION '94



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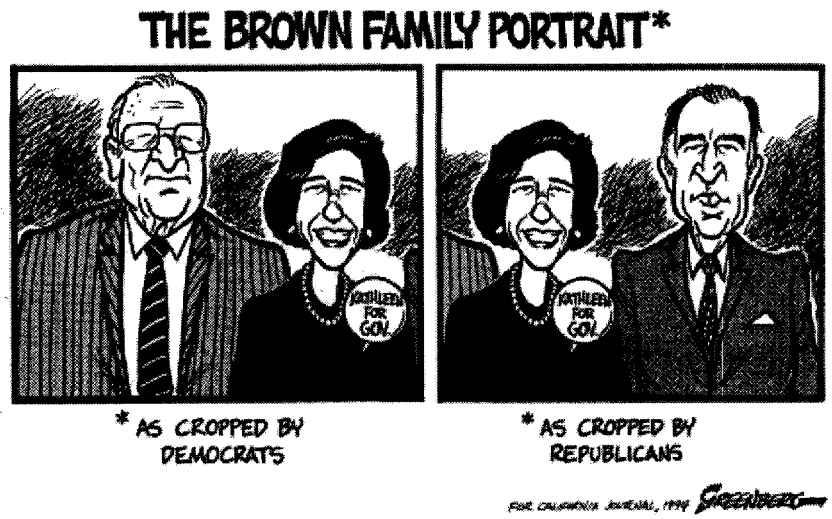
Up Front

UMBRAGE

Left hand. Right hand. Santa Monica Senator Tom Hayden's announcement last month that he would seek the Democratic nomination for governor took most observers by surprise. And among those observers seemed to be Hayden's legislative staff. On the day Hayden jumped into the race, his Capitol office could only confirm that the boss planned a news conference later that morning in Los Angeles. Staffers claimed not to know what Hayden planned to reveal. His Los Angeles legislative staff didn't even know that a press conference had been called. Yet somebody must have known, for another Sacramento phone number that morning was answered "Hayden for governor."

Monkey Wrench Gang. The years' long struggle to build a low-grade nuclear waste facility in Ward Valley took an odd twist recently when the construction site was included in a 6.4 million-acre patch of Southern California desert designated by the federal government as critical habitat for the desert tortoise. The Wilson administration already has awarded U.S. Ecology a contract to build the facility, situated near Needles, but the project has been held up over environmental squabbles. The federal government owns the land and must cede it to California before construction may begin. The critical habitat designation throws a new monkey wrench into the mix.

Jello of the month. If it wiggles, it must be yet another courageous political commitment. In this case, it's the stand taken last month by Governor Pete Wilson who, when asked if he endorsed Maureen DiMarco for superintendent of public instruction, said he hadn't made up his mind. DiMarco is Wilson's secretary of child development and education, for crying out loud — the person Wilson himself hired to help formulate education policy. Is the guv saying that he doesn't know whether DiMarco would be a better schools chief than her main opponent, Assemblywoman Delaine Eastin (D-Fremont)? And if that's the case, why did he hire DiMarco in the first place? Wasn't Eastin available?



Thug of the month. Top honor goes to Roger Langlois of Oakley, who calls himself a "politically active NRA member." Langlois faxed a letter to state Senator Nicholas Petris (D-Oakland) that contained the words "anti gunners" inside a cancelled symbol. Beneath the symbol, it read "goodby and good riddance Roos and Roberti. You're next Senator Petris." Langlois later faxed another message to Petris, saying he wasn't really threatening him.

R-e-l-i-e-f. Award for the most unusual earthquake relief proposal apparently goes to state Treasurer and Democratic gubernatorial wanna-be Kathleen Brown. At a Washington briefing held by the Clinton administration, and attended by representatives of most of her gubernatorial opponents, Brown suggested that many in the country didn't understand the extent of the suffering endured by Los Angeles residents. Her solution? Place a monument to the earthquake on Capitol Hill where visitors to Washington could learn about the disaster. Or, perhaps, where those left homeless could camp until real earthquake relief arrives.

We have met the enemy. It seems that Assemblywoman Barbara Alby (R-Fair Oaks) doesn't trust her colleagues. In fact, she likens them to cat burglars. To that end, she's formed "Capitol Watch" and patterned it after "Neighborhood Watch" — the program where neighbors keep an eye on each other's homes and report suspicious behavior to the police. According to Alby, people are "too busy with their own lives" and often lose track of their legislator's shenanigans. The result, says Alby, is that lawmakers pass laws that create regulations that take more of an ordinary citizen's time — allowing less time to monitor the Legislature, which then can work "even more in the dark." Alby wants to turn on the lights. "The same vigilance, which has been so effective in protecting our homes from criminals, can also be used to protect our pocketbooks from the tax-and-spend crowd under the dome," she said. Let's see if we understand this. Barbara Alby tried three times to join the Assembly, twice losing primaries to the late B.T. Collins before winning a special election to replace Collins after he died of a heart attack in 1993. Yet she views the Assembly with the kind of scorn one usually reserves for thieves and sneaks. Will someone please explain why Alby

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Two Cents Worth

COMMENTARY

Pat Nolan and ignorance

When former Democratic Senator Joe Montoya went up the river, a secret cheer went up from Capitol types. Montoya was a petty crook and stupid, and everybody knew it. He was a pest whose small cons got in the way. And when Democratic Senators Alan Robbins and Paul Carpenter took their falls, there was a gasp, but some satisfaction. After all, these guys were venal shakedown artists, but most people thought that they were too smart to get caught. When lobbyist Clay Jackson was snared, a tremor of fear passed through the place. Clay was into everything. If the big guy could fall, anyone could fall. With this in mind, his colleagues in the lobby corps came to his aid with a defense fund.

Then came Republican Assemblyman Pat Nolan, and the Capitol wept. If a tragedy is marked by the fall of kings and lords, then Nolan's decision to plead guilty to federal corruption charges was a modern-day "Macbeth," for Nolan was clearly a lord of the Republican Party. Smart, affable and political to the core, everybody liked Pat Nolan. His sins, as in classic tragedy, were those of pride and greed. Perhaps not personal greed, but greed nonetheless. He played the game too well, and it was his downfall (see story, page 15).

Nolan, about to start his term in federal prison, maintains that he cut a deal with prosecutors because he could not get a fair deal from anti-politician juries and it would be best for him to serve his time so he could return as soon as possible to his young family.

What Nolan hasn't yet acknowledged is that he did anything wrong.

And by the rules as we know them around here, Nolan may be right. It's within the rules, as played under the dome, for a legislator to vote for someone's bill, and then hit up that someone for a campaign contribution. It's within the rules to give a contribution and then ask for a vote. The trick, somehow, is to make sure the two acts are not connected.

Legislators and lobbyists, of course, insist that there is no connection. Legislators can take the money — sometimes enormous chunks of it — and then profess that they are unaffected by that fact. Lobbyists and special interests insist that all they expect from their contributions is a fair hearing — which, by the way, is more than most of us can expect.

In truth, people outside Sacramento don't buy this charade for a minute. In the minds of most people, if you are handed $1000 or $10,000 from some interest, you must have done something for it. And nobody gives away that much money unless they expect something in return. That it goes toward your political fortunes (as Nolan professed) or your personal fortune (as with the others) is a difference without a distinction to most people. To ordinary folk, a gift of $10,000 makes you beholden. Only legislators profess with a straight face immunity from this human impulse.

Nolan is right; juries won't buy it.

It is unpleasant to think about it, but to most people, nearly every campaign contribution — and certainly those from special interests that donate the great bulk of campaign money — smacks of bribery or extortion.

Although Nolan had figured out that he was going to lose, there is still no indication he knows what he did is wrong.

And in that blissful ignorance, Nolan is once again in step with most of the folks doing business in Sacramento.

— *Richard Zeiger*

California JOURNAL
Independent analysis of politics and government

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Cover illustration by Carol S. Barnett

CALIFORNIA JOURNAL is a non-partisan, non-ideological analysis of California government and politics established in 1970. The *Journal* is indexed in Public Affairs Information Service, New York Times Information Bank, Sage Urban Studies Abstracts and Urban Affairs Abstracts. *California Journal* (ISSN00081205) is published monthly. Subscription rates: Libraries and Government Agencies, $59.00; Corporations and Associations, $95.00; Special Individual rate, $42.00. Address all inquiries to California Journal, 2101 K Street, Sacramento, CA 95816. Telephone (916) 444-2840. Copyright 1994 by Information for Public Affairs, Inc., Second class postage paid at Sacramento. POSTMASTER: Send address changes to CALIFORNIA JOURNAL, 2101 K Street, Sacramento, CA 95816.

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tried so hard to join a group for which she has so much contempt?

Fee for service. When it comes to qualifying initiatives for the ballot, some folks pay a lot of money to hire professionals, who then circulate petitions to gather the required number of signatures. But Dr. Paul Norwood plans to barter for that service. According to *The Fresno Bee*, the Fresno physician is offering one year of free medical care to anyone who will help round up the 600,000 signatures Norwood needs to put his death-penalty measure before voters. Norwood wants to recruit 600 volunteers who would collect 1000 signatures each. But volunteers must deliver before he will; his initiative must qualify for the ballot before they get medical care.

Rally of the month. Monday, March 7th on the Capitol's west steps and in support of AB 2497, a bill by Assemblyman Jan Goldsmith (R-Poway). Special appearance by cuddly toy ferrets in plastic cages and a five-foot mascot in a ferret suit. The bill legalizes domestic ferrets. Sponsored by Ferrets Anonymous. Would we kid you?

Thumping your friends. Latinos are said to be disappointed with all the candidates for governor — Democrat and Republican alike — and may just sit out the 1994 contest. And some Latinos are said to be more than disappointed with the way the candidates have spent the better part of the past year bashing illegal immigrants. Don't be surprised if some Latino activists begin picketing Democrat Kathleen Brown, with whom they are particularly grumpy.

"We live amid surfaces, and the true act of life is to skate well on them."

— Ralph Waldo Emerson

Come across a blurb lately that's nosy, newsy or smart-alecky about California government, politics or politicians? Share it with the Journal. *We pay up to $25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 2101 K Street, Sacramento, CA 95816. Sorry, submissions cannot be returned.*

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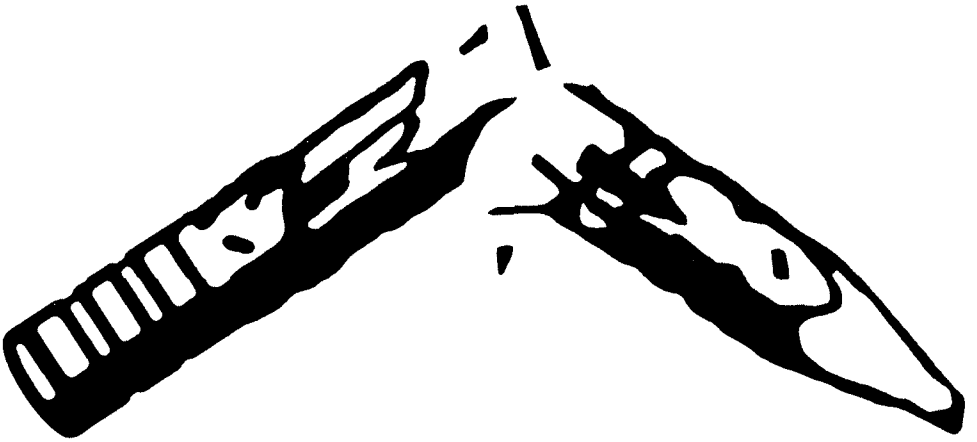

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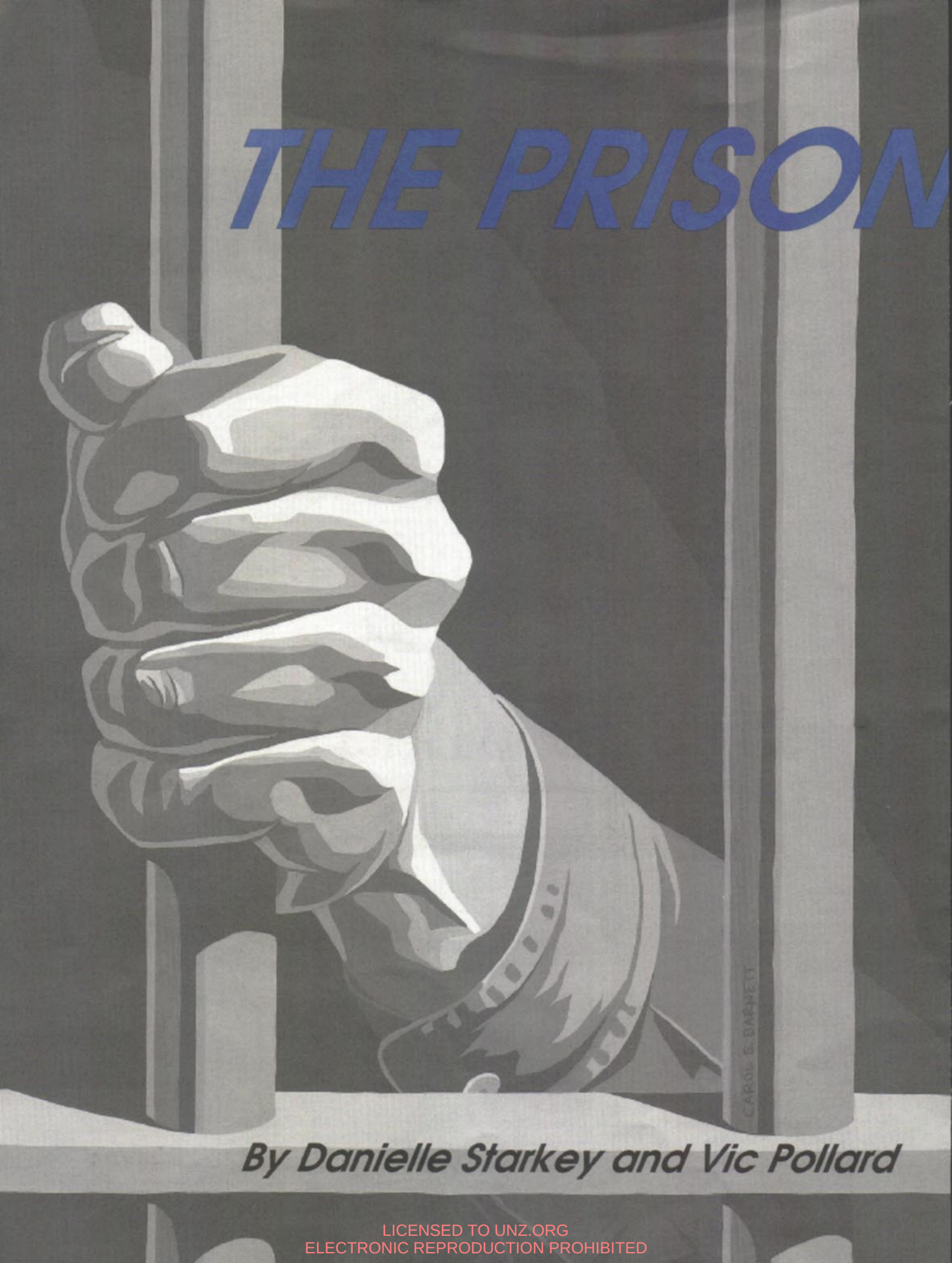

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DILEMMA

California locks up more and more felons, so why don't we feel safer?

Adrian Raine's throat was slashed by a robber a few years ago. "I was furious. I was boiling. I wanted this guy put away forever,"Raine said recently.

But as a criminologist at the University of Southern California, Raine said he also recognized that locking up the robber and throwing away the key were not likely to reduce his chances of getting mugged in the future.

That Raine was mugged at all was, statistically speaking, a rare event. Despite the public's fear about crime, and the perception that it's getting worse, the state's overall crime rate has actually dropped since the peak year of 1980 in all except the violent-crime category. Much of the increase in violent crime is due to a reporting change because of legislation in 1986 that reclassified domestic violence from a misdemeanor to a felony.

Still, while statistics suggest that we should feel safer, few of us do. California's prison population has tripled since 1984, and the state spent more than $13 billion last year on its criminal justice system, which includes law enforcement, prosecution, probation, jails and prisons. Yet many people feel we're not doing enough, or the right things, to make a difference. Even if our chances of being murdered are about the same as dying of AIDS (.1 per 100,000), it's impossible to ignore, for example, that violent crime among juveniles is increasing at an alarming rate: The percentage of youths in the California Youth Authority for homicide went from 6.8 percent in 1987 to 12.1 percent in 1991.

But part of the problem is one of perception: News reports about a recent spate of particularly vicious, senseless crimes — most notably, the kidnap-murder of 12-year-old Polly Klaas — has made public safety a top political issue. Polls show that crime and violence have replaced the economy as the number-one concern among voters, resulting in a truckload of new legislation to crack down on criminals. California is one of at least 23 states considering proposals to sharply stiffen penalties for repeat offenders, usually labeled "three strikes and you're out." These measures differ in detail, but most are designed to impose longer sentences on people who have shown a propensity to commit repeated violent or serious offenses.

The new wave of anti-crime sentiment comes after more than a decade of increasingly stiffer penalties for many crimes. That has left much of the nation, especially California, with overcrowded prisons that consume an ever-growing share of scarce taxpayer dollars. Despite growing public fear and anger about crime, the question remains: Will locking up more criminals really make the streets safer?

Traditionally, the debate has been between two philosophies about human nature. There are those who say crime is a product of poverty, drugs or an abusive upbringing, and that vocational and educational programs could help turn around the lives of most offenders. And there are those who say that criminals are deviants who should be put away.

The debate is not new. In the 1920s and '30s, which included the bank-robbing heyday of Bonnie and Clyde, politicians were confronted with the same kind of demand for harsher penalties, said University of Minnesota law professor Michael Tonry. They reacted much the same way, passing harsh laws to crack down on what were then called "habitual offenders." But as prisons filled with increasingly elderly inmates like Robert Stroud, the famed "Bird Man of Alcatraz," a backlash set in during the 1950s and '60s. Rehabilitation advocates gained the upper hand, the death penalty became more controversial, and some states even granted wholesale pardons, Tonry said. The pendulum began swinging back the other way in the 1970s, as California and other states revived specific sentences for most crimes.

Back under California's old, indeterminate sentencing law (enacted in 1918), felons were sentenced to an open-

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ended term, such as five-years-to-life. Their actual release date was determined on a case-by-case basis by a state body called the Adult Authority, which answered to no one and based its decisions on the inmates's crime and prison behavior.

"Under the indeterminate sentencing law, when you went to prison, you weren't quite sure when you were going to get out," said Bernie Orozco, a senior fiscal and policy analyst with the Legislative Analyst's Office. Further, there was a strong incentive to "be good" once you got out that doesn't exist today.

"It was a system to make sure that you were rehabilitated," said Orozco. "If by chance you did get out, and you acted up or had another incident, they could send you back [to prison] for the rest of your life."

The incentive apparently was effective. In 1975 only 11 percent of parolees were returned to prison for parole violations or for committing new crimes, according to the Little Hoover Commission, a watchdog agency of the executive branch of state government. By 1990, however, almost 80 percent of those released on parole were returned to prison for committing new crimes or violating the conditions of parole, although that rate has dropped to about 60 percent since then because the Department of Corrections has adopted a new policy of not sending back to prison many who violated terms of their parole.

The rapid rise in recidivism came in part as a result of the Determinate Sentencing Act of 1977, which essentially caused parole to fall by the wayside, and which itself grew out of complaints that indeterminate sentencing was subjective and racist. Even the California Supreme Court upheld a 1975 case that found that the Adult Authority didn't have standardized guidelines.

The act, which initially created finite sentences for each offense based on an average of time currently served for the crime, also "explicitly abandoned the long-standing purpose of prison as rehabilitation and instead established punishment as the state goal," according to a January 1994 report by the Little Hoover Commission — "Putting Violence Behind Bars: Redefining the Role of California's Prisons."

Since its enactment, piecemeal revisions of the law — usually following on the heels of a sensational crime — have resulted in a hodgepodge of sentencing requirements that one legal expert said "resembles the best offering of those who author bureaucratic memoranda, income tax forms, insurance policies or instructions for the assembly of packaged toys."

The repercussions of the law and its revisions have been extraordinary, and to some degree, unanticipated. "Every time there was a new crime that got media attention," sentencing requirements changed, said Jeannine English, executive director of the Little Hoover Commission. "There are people in prison for white-collar crimes serving sentences that are longer than for second-degree murderers, and burglary gets a longer sentence than taking corrosive acid and throwing it in someone's face."

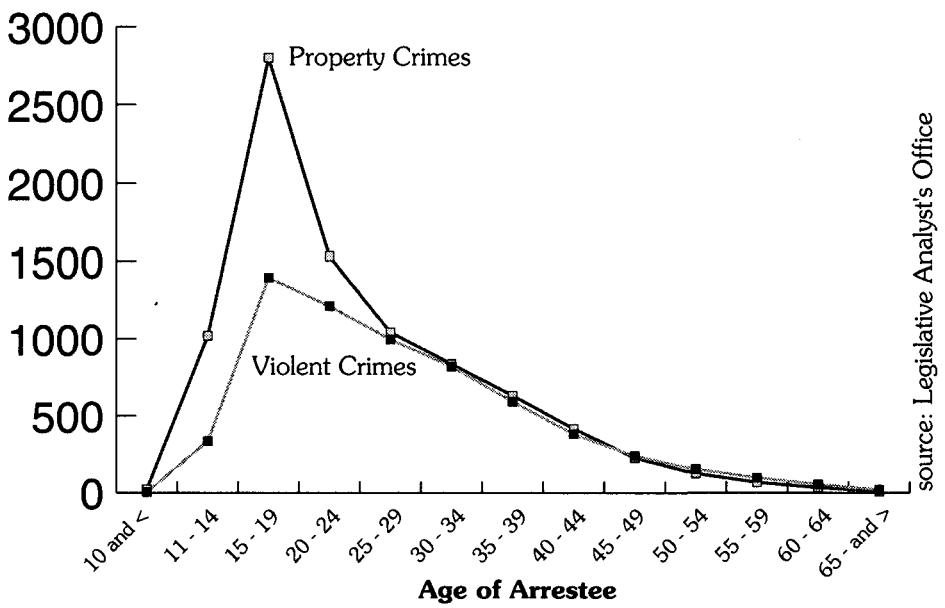
In addition, inmates' release is no longer contingent on being able to show a means of support, or an evaluation of a successful transition back into society. For example, in the past year, 1022 inmates were released on parole from Pelican Bay, where most of the state's worst criminals are housed. Of these, 280 were released from the infamous "hole," or supermaximum security unit, where there are no efforts made to provide counseling, training or an education, and where inmates spend 22.5 hours per day in their cells.

"They're given $200 and dropped off at the Crescent City bus station," said English, of the Hoover Commission. One of these inmates took his cash, boarded a bus for the Bay Area and, within a month, had assaulted and raped a woman.

Another infamous parolee was multiple kidnapper

Felony Arrests Highest Among The Young[a] 1992

- Felony crime arrest rates peak in the 15- to 19-year-old age group.
- About half of all persons arrested in California in 1992 were between the ages of 11 and 24. This group, however, makes up only about 20 percent of the state's total population.



[a] Rate per 100,000 age-eligible population.

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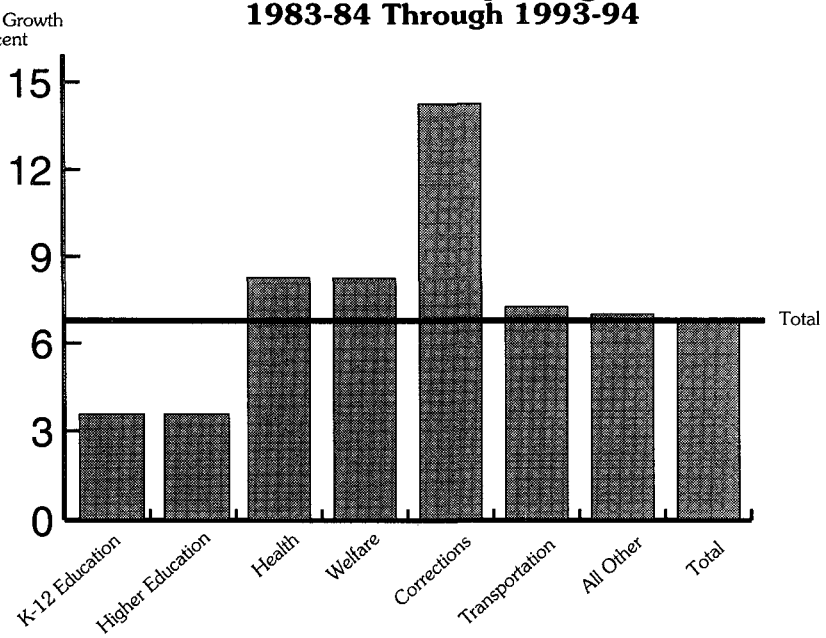
Corrections Spending Compared to Other State Spending 1983-84 Through 1993-94

- Spending for Corrections increased, on average, about 14 percent annually since 1983-84 while total state spending increased about 7 percent per year.

- The principal reason that Corrections expenditures have grown the most is that the prison inmate population has increased much faster than the caseloads of most other programs, such as K-12 and higher education and welfare.



Source: Legislative Analyst's Office

Richard Allen Davis, charged in Polly Klaas's death. "All of the people who had worked with Richard Allen Davis, all of the people who knew him, *knew* he was going to continue his life of violence," said English. But he had served his time, so out he went.

"Our recommendation is that we keep violent offenders in prison until we're sure they're not going to be a threat, and to use other forms of punishment for non-violent offenders," said English. "That would be more cost-effective, and better for public safety, and create an opportunity to rehabilitate some of the non-violent offenders we deem could be rehabilitated."

In addition to giving indefinite sentences for violent criminals and habitual offenders, and restricting their ability to earn reduced sentence time, the Little Hoover Commission recommends lengthening the time beyond the present limitation of one year that a parolee can be returned to prison for a violent crime.

Yet lawmakers, and the public, remain enamoured of the three-strikes bills that would in fact incapacitate those who've committed crimes, but also would represent a multi-billion dollar investment in the back-end — and most expensive portion — of the state's criminal justice system. Assemblyman Phil Isenberg, a Sacramento Democrat, was one of the few legislators to try to stick out his hand to stop the locomotive, when he urged a "no" vote on the three-strikes bills before the Assembly. He said that, since he was elected in 1982, the prison population has gone from 28,000 to 120,000, and 10 prisons have been built, yet the public feels less secure than ever.

"You would think that if security is the goal, someone would step back and say, 'Wait a minute, if we tried higher penalties, greater enhancements, building more prisons, putting more people away and [we] still don't feel safe, then what's the answer?' Well, how about higher penalties, putting more people away, building more prisons, spending more... I mean, even a casual observer of the scene would say there's something screwy," Isenberg said.

Isenberg said one of the Legislature's goals should be to ensure that space in prison is available for violent offenders. Currently, 43 percent of all people in state prisons are there for violent crimes, and 57 percent are in for non-violent crimes. That's largely because local decision-makers naturally choose the least costly sentencing option from their perspective, and prison is free for them.

"Are we willing to say if we move non-violent people out of state prison that we ought to create alternative punishments for them? Hell no, we're not willing to say that. Why? Well, because somebody may put out an attack piece of mail that says you're soft on crime," Isenberg told his Assembly colleagues.

Criminal-justice experts are watching the "lock 'em up" frenzy with reactions ranging from sad bemusement to alarm. Decades of research have failed to turn up any solid evidence that longer sentences have been a significant deterrent on crime, RAND researcher Peter Greenwood told state senators considering the "three strikes" bills. Greenwood said certain offenses such as drunk driving may drop temporarily after penalties are stiffened due to a "shock" effect. "But whatever deterrent effect it has goes away in a year or two," he said.

Tonry said the chief reason is that most crimes, particularly violent crimes, are impulsive acts committed by people who don't stop to think about the consequences. Tonry and other experts also point out that the trend toward ever-longer mandatory sentences ignores the fact that the vast majority of crimes are committed by young men between the ages of 15 and 24 (see graph, page xx).

Except for individuals with serious mental illness, "There's huge amounts of evidence that the fires that burn inside people that cause them to commit violent crimes begin to

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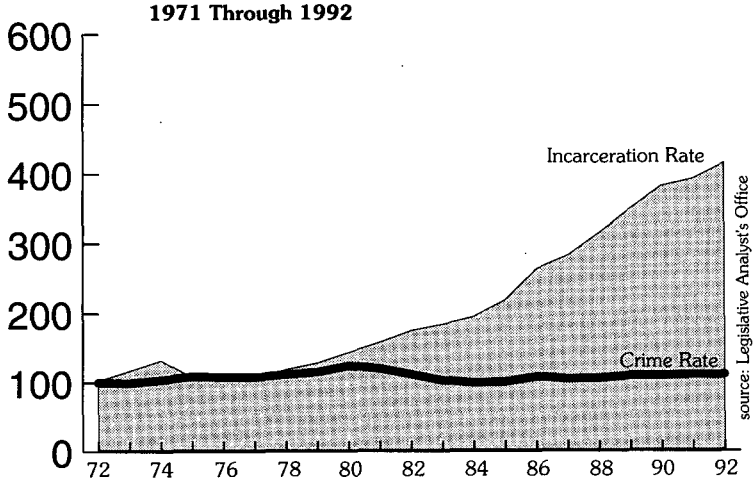
Crime Rate Remains Stable Despite Sharp Increase in Imprisonment[a]

1971 Through 1992

- California's incarceration rate has increased almost 300 percent since 1971 while the crime rate remained relatively flat (it increased about 11 percent).
- Some reasearchers argue that this situation should be expected because they believe that incarcerating more people for a longer period of time has no impact on the crime rate. Others disagree and argue that the crime rate would have increased significantly if the rate of imprisonment had not increased so significantly.



[a] Change in rates per 100,000 population, indexed to 1972

burn out by the time they get to their 40s," Tonry said. "If you lock people up until they're in their 50s and 60s, all you're getting out of it is some temporary emotional satisfaction."

Increasing attention is also being paid to biological factors that appear to predispose people to violence, such as head injuries and birth complications, although the conclusions are still speculative and controversial.

So how can the state fashion a corrections policy that keeps violent offenders off the streets and does not eat up money needed for other public programs? There are some examples of systems that work well, experts say. Minnesota and Delaware are credited with creating some of the best models in the 1980s. They rejected both mandatory sentences for all crimes and indeterminate sentences, in which parole decisions are usually made on a case-by-case basis by gubernatorial appointees. Instead, they set up independent agencies that established sentencing guidelines that take into account a wide variety of factors in each individual case, such as the seriousness of the crime and the likelihood of repeat offenses.

Since Delaware's guidelines went into effect in 1987, it has seen a marked increase in incarceration for violent crimes, while incarceration for non-violent offenses has dropped by almost half and its prison population has even declined slightly, according to the National Conference of State Legislatures. Experts caution that such a system must be coupled with an effective probation and parole supervision system, programs that have been increasingly starved for money in California in recent years. They also warn against adopting a system that is too complicated to administer fairly, the chief complaint about the controversial guidelines of the federal judicial system.

California's Legislative Analyst's Office recommended last year in its booklet, "Making Government Make Sense," that the state work more closely with local governments to decide how to best utilize each other's resources. "The way it's set up now, they're each trying to shunt off workloads on each other," said Orozco. In other words, since local governments can send people to prison at no charge, that's exactly what they choose to do, even though it costs more to taxpayers.

"The [local governments] should determine the length of the sentence, and they should pay for the service" through a revenue-redistribution plan, said Craig Cornett, director of criminal justice and state administration for the LAO. "We think that changes the fiscal incentives in a really positive way, and among other things encourages them to do more at the front end for prevention in order to prevent that back end cost."

In addition, Cornett said, a blue-ribbon commission convened in 1990 on inmate population management produced a comprehensive, balanced study that has largely been ignored.

"The key conclusion they had was that the system is out of balance, which we think is completely true," Cornett said. "We have too many resources at the back end, and not enough at the middle or at the beginning. We especially don't have enough at the front end to prevent people from becoming defendants or to deal with them when they first enter the system, but we put a lot of resources in the back end to warehouse people in state prison after they've committed the crime."

Nevertheless, it's likely that's exactly where money is going to go, given the momentum of the "three strikes" solution. Governor Pete Wilson's administration, in what it acknowledged is a conservative estimate, predicted recently that the proposed "three strikes" initiative would require construction of 20 new prisons by the turn of the century — in addition to the 12 new facilities expected to be needed under current sentencing laws. They would cost $2 billion a year to operate. Prison operating costs would continue to increase for the first 30 years under the program, maxing out at $5.7 billion a year by 2027.

These numbers didn't seem to deter lawmakers, however; during the first week of March, a bill identical to the "three strikes" initiative breezed out of the Legislature and was signed by Governor Wilson. Alternative bills, designed to address other problems as well as get tough on violent criminals, stalled. During the second week of March, proponents of the "three strikes" initiative turned in signatures to get their measure on the ballot.

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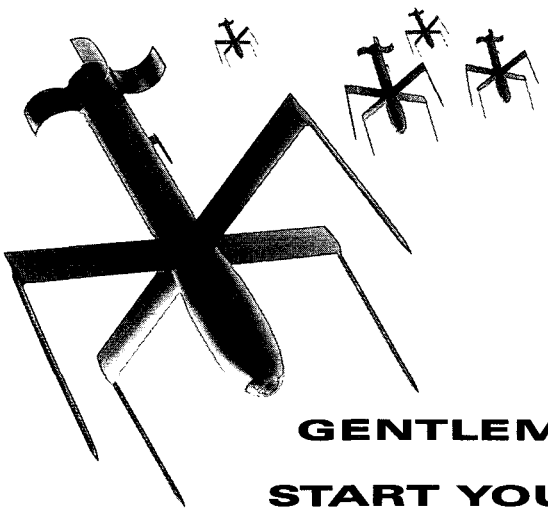

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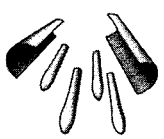

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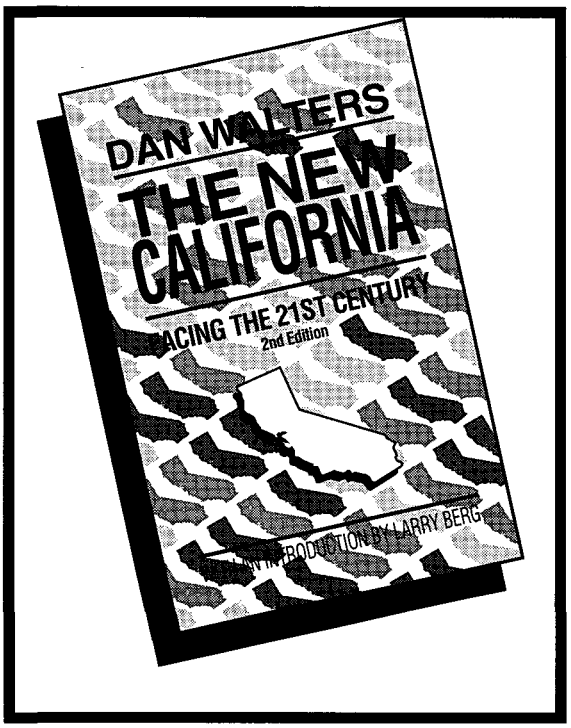

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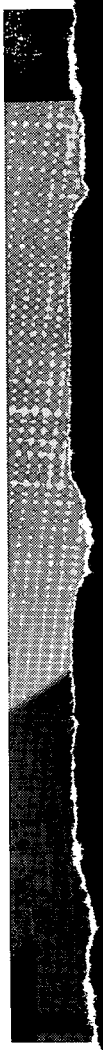

The GOP Golden Boy of the '80s heads for prison

By Steve Scott

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standing at his side. All the others made their initial denials indirectly, either through written statements or through the filter of an attorney. Not only that, but Nolan continued to raise and spend money for both his legal defense and for re-election to his 43rd District Assembly seat. His allies and other conservative elites rallied to his defense, declaring that the prosecution against him was motivated by partisanship, despite having been launched by a Republican U.S. attorney. Pat Nolan was not about to go quietly.

And yet, some nine months after his indictment, there was the same Pat Nolan, standing wordlessly in the courtroom of U.S. District Judge Edward Garcia, entering a plea of guilty. In a written brief, the Glendale lawmaker admitted that he'd run a bribery and extortion operation out of his office during his four-year stint as the Assembly's Republican leader. Turning on a dime after literally years of denials, Nolan accepted a plea bargain, in which he would confess to having solicited bribes for his help with legislation. In return, Nolan would receive a minimal sentence of 33 months — less than half of what he might have gotten with a guilty verdict in a trial. The deal did not include any promise to testify against co-defendants Hill and Frost, but no matter. Pat Nolan, once the GOP's rising star, was out of the Legislature in disgrace.

"My family is too important, so I've accepted the government's offer, which will limit the time away from my wife and children, and allow me to be with them as they grow up," Nolan said.

Nolan's friends and allies were stunned at the turn of events. Former Assemblywoman Bev Hansen, whom Nolan had opposed in her first primary campaign back in 1986, said she "cried for three days" after hearing of Nolan's decision to plead guilty. His Assembly Republican colleagues couldn't have been more solemn if the news had been of Nolan's death. "Everyone had a pit in their stomach," said Republican Assemblyman Dean Andal of Stockton. And his most loyal friends simply refused to accept it, maintaining instead that Nolan's only deception was his guilty plea.

"I will go to my grave believing Pat Nolan to be completely innocent," Assemblyman Ross Johnson of Fullerton, Nolan's conservative soul mate and closest political ally, told *The Sacramento Bee*. "I think it's a rotten shame."

It is quite likely that Nolan has more defenders than the rest of the targets in the federal sting put together. His sharp intellect and straight-faced self-confidence gave Nolan's autonomic partisanship a credibility missing from the rhetoric of most other politicians of any stripe. Few besides Nolan could admit guilt inside a courtroom, then unblinkingly portray himself as a political prisoner outside the same courtroom. Beyond the talk of personal martyrdom and hints of partisan conspiracy, however, lay the prosecution's case, some of which was already in the public record.

Affidavits released last year detailed a meeting at a Sacramento hotel involving Nolan and an undercover FBI agent posing as a businessman. During the meeting, Nolan accepted a payment from the undercover agent, ostensibly for Nolan's help in winning passage of special-interest legislation crafted as part of the two-and-a-half year undercover sting operation. The payoff was videotaped by the undercover agent, and the woman who arranged the payment, Nolan's chief aide Karin Watson, was

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lined up to testify against him, having herself pleaded guilty to extortion four years before. Cases with considerably less direct evidence, requiring far longer leaps of faith, had already been fought and won in the same federal courthouse.

"Any jury who was told, in that courtroom, that Pat Nolan was a politician would have found him guilty," says Senator Bill Leonard, a Redlands Republican who served in the Assembly during Nolan's tenure as minority leader.

Time and turnover have also put a haze on the memory of Nolan's often-stormy tenure as minority leader. The martyr to home and family of 1994 is a far cry from the hard-charging political bulldog of the mid 1980s. Nolan came to Sacramento as part of the 17-member GOP freshman class, which came to be known collectively as "Proposition 13 Babies." The group quickly became known for its hard-core, anti-tax conservatism, and its impatience with the relatively moderate philosophical bent of the GOP's leadership in the Assembly. Nolan became the focus of that opposition, and the cadre of legislators which gathered in his orbit were dubbed "Nolanistas." Among this group were Johnson, Hill, Bill Baker (now in Congress) and John Lewis (now in the state Senate).

By 1982 two more elections and a disastrous redistricting for Republicans gave the Nolanistas an opening, and they began putting the heat on then-Minority Leader Bob Naylor. Naylor, considered too moderate and conciliatory toward the Democrats for the growing conservative chorus, found himself under fire at nearly every turn. "Nolan, Ross Johnson, and some of the others were regularly challenging Naylor on policy issues, caucus issues, and things like that," recalls Leonard. The first shot at Naylor came when he decided to work out a compromise with Democratic leaders on a 1983 education-reform effort, and by 1984, Naylor was under the gun. "Pat was actively campaigning [for minority leader] throughout the fall," recalls Naylor. "I did not worry about factional politics and he did."

Eventually, Nolan and his allies won out with the surreptitious help of Assembly Speaker Willie Brown Jr. Although he maintains he had made the decision in the summer of 1984 to step aside for a bid for U.S. Senate, Naylor concedes he might not have won re-election had his leadership come up for a vote. "The speaker had recruited two or three of my supporters to vote for Pat," says Naylor. "All you could look forward to from my position was more siege."

As GOP leader, Nolan quickly showed his pragmatic side. Cultivating his relationship with Brown (another expert at churning up factional discord), Nolan cut a deal which allowed him to essentially choose all committee vice chairs and pick which Republicans would serve on which committees. Nolan was arguably the most powerful minority leader in the Assembly's history, at least to that point.

Being a powerful minority leader helped Nolan win points within the caucus, but it did little to satisfy his own his political appetite. Pat Nolan wanted to be speaker. And that cost money. "He was desperate enough to be speaker that he would talk to anybody about campaign contributions," says Leonard. Mostly, Nolan talked to the business community and his message was blunt: Support us because we're for what you're for.

Nolan's fund raising wasn't just geared at electing Republicans, however. It was aimed at electing a certain kind of Republican. In 1986, Nolan and his allies poured hundreds of thousands of dollars into primary contests, backing conser-

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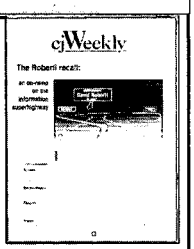

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Nolan's fund raising wasn't just geared at electing Republicans, however. It was aimed at electing a certain kind of Republican. In 1986, Nolan and his allies poured hundreds of thousands of dollars into primary contests, backing conservative candidates who were opposed by more moderate opponents.

Photo by Rich Pedroncelli

vative candidates who were opposed by more moderate opponents. Hansen was one of Nolan's primary targets as Nolanistas pumped $120,000 into the campaign of her conservative opponent, Martin McClure. "I think they wanted to find someone who was 'their' person, and I wasn't their person," says Hansen.

"He was eagerly trying to stack the Legislature with people that would be loyal to him and would naturally work more co-operatively with him," says Assemblyman Charles Quackenbush of Saratoga, who beat back a $150,000 primary onslaught from the Nolanistas on behalf of a Lewis staffer named Henry Olsen.

Nolan's approach echoes the strategy employed just two years ago by the conservative Allied Business PAC: Find a candidate that thinks the way you think, and give him or her a lot of money. "I just found that terribly unproductive," says Naylor. "Why would you spend a lot of resources on primaries, except if you're worried about factional control ... about being 'King of the Mountain,' no matter how small the mountain."

As was the case with Allied in 1992, Nolan's comeuppance came on primary night. Both Quackenbush and Hansen won their primaries against the Nolan-backed opposition. "He thought he'd just come into any district and brush opposition aside," says Quackenbush. "He learned a lot of lessons from that race."

Lessons about primaries, perhaps, but not about political hubris. Two years later, Nolan loyalists, including Henry Olsen, were caught having sent out an attack letter aimed at then-Democratic Assemblyman Dick Floyd of Hawthorne. The letter appeared under the unauthorized and forged signature of then-President Ronald Reagan. Although Nolan was not directly involved with the Reagan letter, some blamed the relentless, "anything goes" climate his leadership fostered within the caucus. "He was always in such a rush," notes one insider who asked not to be identified. "Staffers got chewed up."

"I think what brought him down was inattention to what his staffers were doing," says Quackenbush. "He was allowing an atmosphere to develop where the ends justify the means."

Perhaps the hardest lesson for Nolan, however, came that August night in 1988, when his office was one of four raided by FBI agents hunting for evidence to buttress an undercover sting operation that began in 1986. It was only then that Nolan learned that the shrimp manufacturer from whom he and his chief aide had solicited contributions was, in truth, an undercover FBI agent.

But perhaps the most bizarre irony in the whole affair is the revelation that Nolan helped start the freight train that eventually ran him down. Recently unveiled affidavits indicate that the entire corruption probe was triggered, in part, by Nolan's complaints to the Reagan Justice Department about Speaker Willie Brown. Nolan told the feds that Brown used "bag bills" in the Legislature to shake down political contributors, and urged the federal agency to go after the speaker. Nolan was finking on Brown at the same time he was publicly cooperating with the speaker, and receiving more and more power from him. Even Nolan's allies privately describe the maneuver as "stupid." Brown, infuriated by the duplicity, was said by one source to have been somewhat less than heartbroken by Nolan's guilty plea.

And yet Nolan wins more sympathy than many other legislators because of the perception that his was an ambition of purpose, rather than of personal enrichment. "He was a true conservative idealist," says Hansen. "There's no question in my mind that his motives were not self-serving."

Even Naylor, who has every reason to delight in Nolan's misfortunes, credits his nemesis with the best of intentions. "One thing you have to say about Pat is that he was not motivated by anything except public policy."

It is this perception that has allowed Nolan and his supporters to maintain that his guilty plea was the action of a hero, rather than of a criminal, and to portray him as "a political prisoner." This comparison will no doubt sustain Nolan during his time in federal prison, but there is at least one important distinction to be drawn between Pat Nolan and other "prisoners of conscience." Most political prisoners are imprisoned for refusing to sign a confession, and proclaim their innocence to the bitter end.

Pat Nolan pleaded guilty.

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The Bottom Line

GOVERNMENT FINANCE

By Susan Rasky

Health care and the budget

Tucked in the fine print of the legislative analyst's review of Governor Pete Wilson's 1994-1995 budget is an arresting factoid: The number of individuals who receive health-care coverage through Medi-Cal, California's version of the federal Medicaid program, is now greater than the number of children enrolled in the state's public school system. Numerically translated, that is 5.4 million, or one in every six Californians getting care of some sort under the shared federal-state program that provides health services to the needy.

The news here is not that the Medi-Cal caseload is exploding or that the $6 billion state share of the program costs represents a significant chunk of California's overstretched budget. Nor is it that the inflation rate of medical care has averaged 7.4 percent annually in California over the last three years, more than twice the rate for all other goods and services.

What is noteworthy, particularly now with Congress battling over competing proposals for health-care reform, is the composition of the Medi-Cal population. While AFDC beneficiaries comprise the largest category of recipients (about half), the fastest growing portion of the California caseload is the working poor — those with incomes between roughly $16,000 and $24,000 a year for a family of three. The number of such recipients has grown by more than 15 percent in each of the past two years, which is nearly three times faster than the growth rate for other groups on the Medi-Cal rolls over the same period.

Pete Wilson has been struggling with the implications of that unrelenting arithmetic since he took office.

That kind of caseload gives California a rather monumental stake in how, or indeed whether, Congress decides to incorporate the Medicaid program in the overhaul of the national health-care system. It also poses some uncomfortable political and ideological choices for the Wilson administration as it evaluates how California might fare under the various reform schemes, and how to proceed in the meantime with reforms in the state's Medi-Cal program that have been underway for the past two years.

The most significant of these reforms — at least from a budgetary perspective — is the effort to control Medi-Cal costs by placing increasing numbers of the program's AFDC recipients in managed-care arrangements under either private, prepaid health plans, county-organized health systems, or private providers within a specific geographic area. In theory, the costs are controlled by reimbursing providers on a per-patient basis regardless of the number of services the patient might use, and by requiring physician referrals for use of medical specialists or high-cost services.

What the legislative analyst found, however, is that the prepaid health plan arrangements are actually costing the state more than if providers were reimbursed under Medi-Cal's traditional fee-for-service system. This has a lot less to do with the relative merits of managed care versus fee-for-service than it does with reality. Medi-Cal has very low reimbursement rates that private plans are reluctant to accept. What it does suggest is that the governor and those who share his commitment to private market medical service alternatives will have an increasingly difficult time defending their approach when existing government structures appear to be cheaper.

Indeed, the legislative analyst's report argues that Medi-Cal could save a potentially significant amount by requiring that recipients of Supplemental Security Income (the aged, blind and disabled) be included in the managed-care arrangements. Under the current reform plan, counties have the option of including such recipients in their local health systems.

SSI recipients tend to be the highest cost group in Medi-Cal because of their age and or the severity of their health problems. But they also tend to have well-established relationships with personal physicians, and perhaps more important, they are likely to be a good deal more politically vocal than AFDC recipients about the shift to managed care.

The legislative analyst also raised concerns about costs for another far smaller, but in some ways more significant, state health-care reform effort — the Access for Infants and Mothers (AIM) program. The program, which provides coverage for uninsured women seeking pregnancy-related and neo-natal medical care, was a major Wilson administration initiative designed to reach low-income women whose earnings or family assets are too high to make them eligible for Medi-Cal.

From the governor's point of view, creation of the program represented a path-breaking decision by lawmakers not to expand Medi-Cal to cover such clients and instead to enroll them in private insurance plans where they would be required to pay a portion of the costs for their medical services. The problem is that the state's resources are limited, which has meant that AIM serves only about 40 percent of the uninsured women who meet its eligibility criteria.

In the coming budget year, AIM enrollment will drop from 1000 women a month to 750 because of funding constraints. Here, too, the legislative analyst has concluded that serving these same clients under Medi-Cal would cost the state a lot less.

That recommendation, of course, defeats the whole point of AIM, but it dramatically underscores the difficulty, and perhaps impossibility of achieving state budget savings with a piecemeal approach to health-care reform. Absent a universal system of health-care coverage where the working poor would be included, a system the governor thus far opposes, the only alternatives are leaving these Californians without needed care or covering them under Medi-Cal and facing the budgetary consequences.

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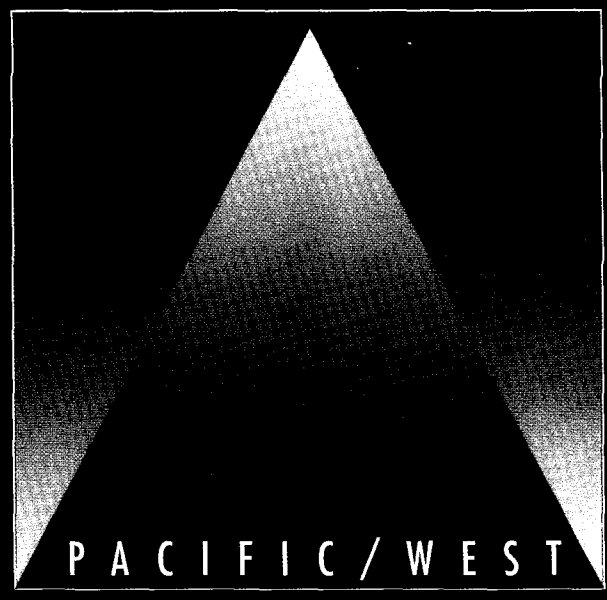

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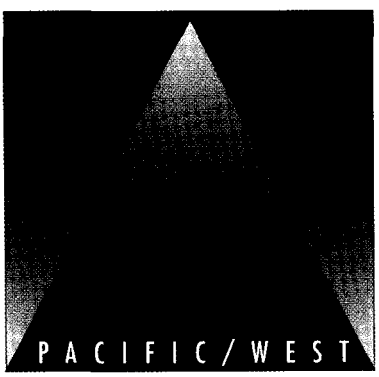

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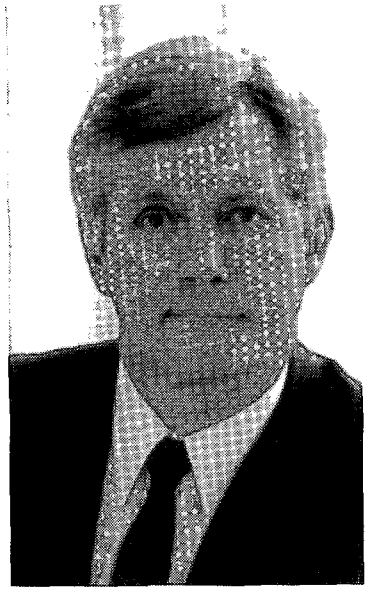
ELECTION '94

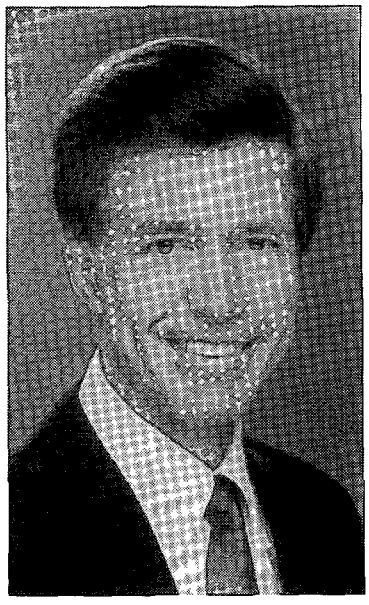
While Democrat Gray Davis waits for the fall, Cathie Wright and Stan Statham battle for the Republican nomination

By John Borland



Stan Statham

Cathie Wright



Gray Davis

To hear them talk,the three major canidates for lieutenant governor seem to be running for different offices.

Republican state Senator Cathy Wright of Simi Valley says she wants to be a kind of state government ombudsman, helping ordinary citizens navigate the bureaucratic maze. GOP Assemblyman Stan Statham of Redding envisions himself as a traveling legislative salesman, helping jump-start the often gridlocked legislative process by writing bills on a few key issues and lobbying for them in Capitol halls and in legislators' districts. He says he's even willing to put aside his well-known campaign to split California into two or three states if that will help. Democratic state Controller Gray Davis, on the third hand, sees himself as a cheerleader for business, coveting the chairmanship of the state's Economic Development Commission that goes with the job.

John Borland is a graduate student in journalism at the University of California, Berkeley.

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This is par for the course in a lieutenant governor's campaign: The job is whatever the incumbent makes of it, says retiring incumbent Leo McCarthy, who has held the job since 1982. Constitutional duties are limited to breaking tie votes in the state Senate and filling in when the governor is traveling or incapacitated or leaves office altogether. No lieutenant governor, however, has moved up since Republican Goodwin Knight took over when fellow Republican Earl Warren left the governorship for the United States Supreme Court 40 years ago.

The office often is described as a simple placeholder, a way station for candidates seeking higher office. In fact, it has been a ticket to political oblivion for the last four occupants. McCarthy, widely regarded as one of the state's most talented and ethical political figures, tried twice — unsuccessfully — to use it as a springboard to the U.S. Senate. His predecessor, Republican Mike Curb, a handsome entertainment industry mogul, was once seen as the new Ronald Reagan. But he made too many foolish mistakes while lieutenant governor during Jerry Brown's tenure as governor. Earlier, Democrat Mervyn Dymally was brought down by scandal (although he went on to serve in Congress), and Republican Ed Reinecke, who served when Ronald Reagan was governor, became snared in the periphery of Watergate.

The low level of respect and attention accorded to the office by the media and the public means that creative interpretation is one of the candidates' most effective campaign tools. "It is possible to just breeze through the office, give away plaques and so on," says McCarthy. "It all depends on how much initiative the incumbent has."

McCarthy says he spends the majority of his time in his capacity as chairman of the Economic Development Commission, working with foreign governments to help California businesses gain access to their markets. "Mid-level and small companies need somone to open doors for them," he says. "In Asia, being the lieutenant governor of California is a big deal — much bigger than in California."

His office also produces 10 or 12 bills a year for legislative consideration, McCarthy says. "When you leave the Legislature, you aren't going to be introducing a hundred bills a year or you won't be taken seriously."

The office's freedom is not infinite. One limiting factor is the budget, about $1.7 million a year for both the lieutenant governor's staff and the commission. A second potential obstacle arises when the governor is of a different party than that of the lieutenant governor. Curb's election in the middle of Democrat Jerry Brown's tenure launched what has become a pattern of governors and lieutenant governors from different parties. McCarthy says the two Republican governors he's served under — George Deukmejian and Pete Wilson — haven't been difficult to work with, but there was open friction between Curb and Brown.

But for the candidates, it's all theory until one of them is elected.

In a suite atop Burlingame's Hyatt Regency during the recent state Republican convention, Wright divided her time between watching Olympic figure skating and discussing her primary battle with Statham. She dismissed his conception of the office as that of a super-legislator.

"When he talks about legislation; well, that's what he's been doing all these years," says Wright. "That's not lieutenant governor. That's a member of the Assembly."

Wright has made her political reputation by being an aggressive campaigner, a skillful fund raiser and a feisty, combative legislator who sometimes drives colleagues on both sides of the aisle to distraction. Unfortunately, she has been known to be feisty and combative even when she is out of her depth. For instance, in 1992, her last year in the Assembly, she served as Republican lead on Ways and Means and on a two-house budget conference committee where her questions and observations were less than astute for a six-term legislator and brought her into open warfare with committee Chairman John Vasconcellos, a Democrat.

But it is her feistiness that some GOP strategists say would make Wright a useful addition to a Wilson ticket in a race against Democrat Kathleen Brown. She would be able to attack Brown directly, protecting Wilson from the backlash that can hurt male politicians who criticize female opponents. Naturally, she agrees. Asked what advice she would give Wilson in running against a woman, Wright said, "Don't attack her yourself."

Wright's enthusiasm sometimes overwhelms her better sense, as at a reception during the state GOP convention, when she was stressing her support for putting violent criminals away for life. "Some of them I wouldn't even put on trial," she said. "Just ... pfffft," and she jerked a dismissive thumb over her shoulder. Aides quickly changed the subject.

Wright's eagerness to tangle with bureaucracy has also landed her in hot water and may provide damaging ammunition for her opponents' campaigns. News stories in 1989 reported that she had used her position to help prevent her daughter from losing her driver's license after a string of traffic tickets. Wright denied any wrongdoing, but the Ventura County district attorney's office concluded she had tried to fix her daughter's tickets several times. At one point, Assembly Speaker Willie Brown Jr. even intervened on Wright and her daughter's behalf.

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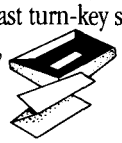

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Wright, 64, has spent 13 years in the Legislature, 12 in the Assembly. She is midway through her first term representing the Senate District 19 in Ventura and western Los Angeles counties. Previously, she worked as an insurance underwriter and served as a school board member, city councilwoman and mayor in Simi Valley. She disavows any specific ambitions beyond the lieutenant governor's office, but says she is receptive when opportunity presents itself. She has a free ride in her Senate district, which does not come up for reelection until 1996.

Wright said the idea for the current bid was planted during last September's state GOP convention when she was invited by a group of party activists to run. Initially undecided, she now says, "The door opened; you either walk through or regret it the rest of your life, and I walked through."

Statham says he needed no recruiting.

"I'm running because I'm sick of the Assembly," he says bluntly. A moderate Republican, Statham said he's sick of seeing good bills killed before they reach the governor's desk. That's why he wants to see if he can have more impact on the legislative process from the bully pulpit of the lieutenant governor's office.

"The lieutenant governor has armaments available to him that are awesome," Statham said. "Whether it's a tie you wear, or a movie you watch, or a politician you vote for, you've got to be sold. I know the issues and I'm going to sell California on what it has to do to save its future."

Statham has his own worrries in the form of a nagging history of sponsoring plans to split up a state of which he now wants to be lieutenant governor. The longtime Redding assemblyman has received national press attention for his advocacy of a multiple-Californias plan, authoring a bill that would put the question of state fission to voters. But he now says he is willing to put the idea on the back burner until further notice.

"If I become lieutenant governor, I would like to put division [of the state] on the shelf for four or five or six years," he says. He claims to have conceived of the split to guarantee a "new state government" [or two or three]. He now says if his platform of "legislative posterior kicking" is effective, he will give up the plan altogether. But if he is not able to see any improvement in state government, he vows to "use the full resources of the office of lieutenant governor to put the idea on the ballot."

Relaxing with a Diet Coke at the recent convention, a bright jungle-patterned tie enliving his otherwise conservative suit, the tall lawmaker portrayed himself as a "maverick" Republican willing to break with the establishment when needed. He admits he has had differences with Wilson in the past, but says this would not affect their ability to work together if both were elected in November.

"We are very close friends," he says. "I think Pete Wilson and Stan Statham are both good Republican mavericks that know government."

Statham, 54, has represented Assembly District 2 since 1976. Before that, he was an anchorman and news director for a television station in Chico.

Gray Davis has the Democratic primary mostly to himself. Another Democrat, Phillip Ashamallah, filed a declaration of intent to run, but he could not be reached for an interview. Other party candidates include the Green Party's Daniel Moses, director of the San Francisco-based Earth Island Press; Libertarian Bob New, a Glendale businessman; Peace and Freedom Party candidate Jamie Gomez; and American Independent Party hopeful Robert Lewis. Gomez and Lewis also could not be reached.

In terms of all-important cash, Davis not surprisingly has a big jump on both of the Republican contenders, with a war chest of nearly $2 million. Wright and Statham won't disclose how much they have now, but in the last six months of 1993, Davis raised $910,553, compared to $152,223 for Statham and $71,312 for Wright. Both Statham and Wright will have to spend heavily to try to win the primary election, while Davis can continue to raise money for the November race.

While Wright's and Statham's ambitions may be unclear, no one believes that Davis is running for lieutenant governor just to be lieutenant governor. Now serving his second term as controller, Davis ran for U.S. Senate in 1992, losing the Democratic primary to Dianne Feinstein. Now 51 but looking years younger, he cut his teeth on politics with a race for state treasurer in 1974, only to be swamped by the last-minute entry of Jesse Unruh. He then became chief of staff for Governor Jerry Brown and later served two terms in the Assembly from West Los Angeles before running for controller.

Davis, whose skill earned him the unofficial title of the "real governor" during the Jerry Brown years, may have acquired his worst political liability during the 1992 Senate campaign. He ran a television ad likening Feinstein to jailed hotelier Leona Helmsley, which drew heavy criticism from both Republican and Democratic leaders.

Political analyst Bruce Cain said he believes Statham may have a slight edge in the GOP race over Wright, but that he'd have a hard time beating Davis in November. "These races tend to go along party lines," Cain said, "and Democrats have the registration advantage" statewide.

But then there's the bad luck that seems to dog California's lieutenant governors. Davis is philosophical about it.

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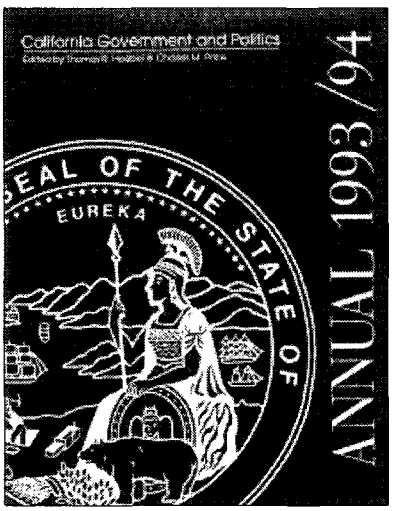

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initiative reform

Is it time to return to the "indirect" initiative?

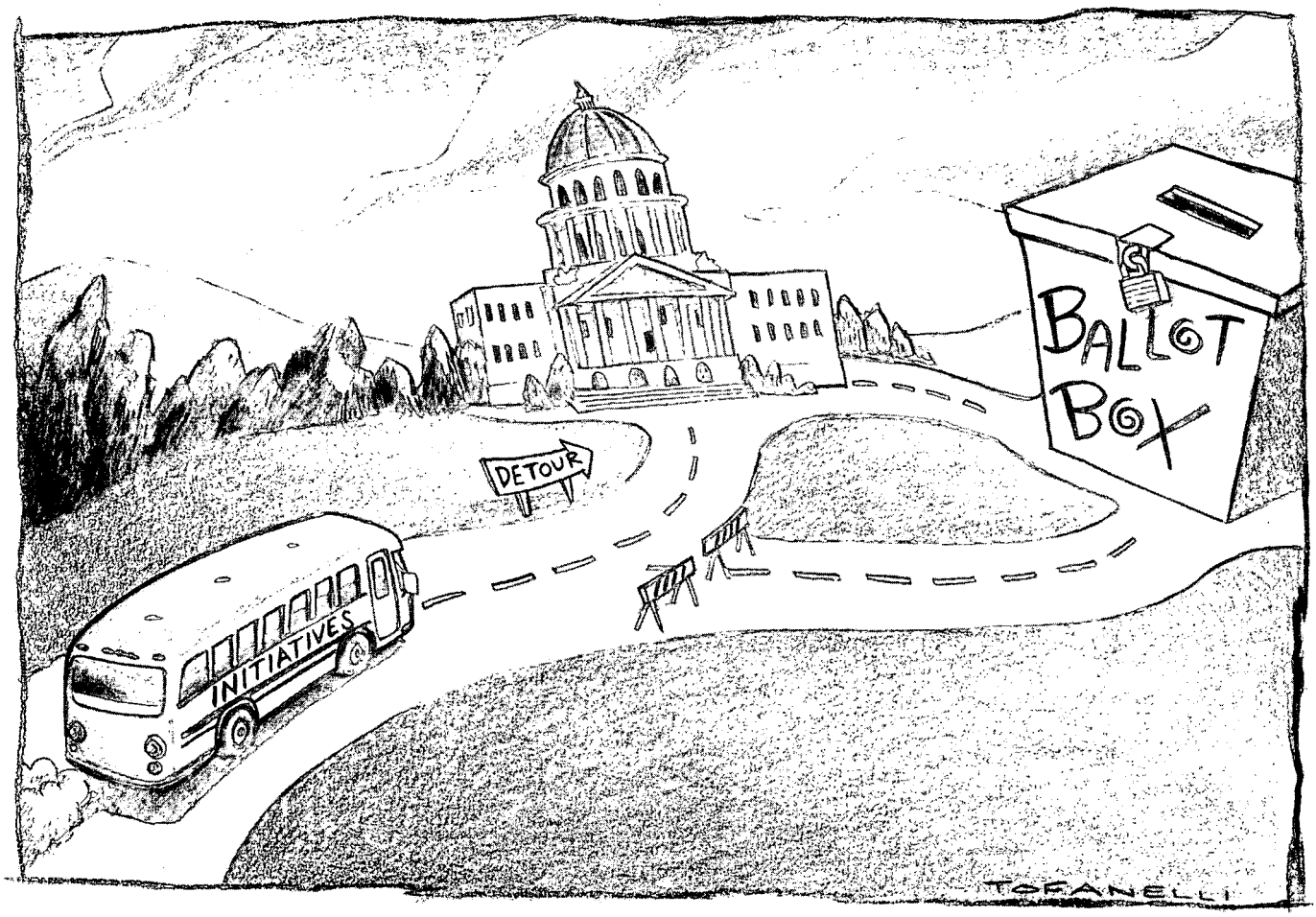

Illustration by Mike Tofanelli

By Charles M. Price

If public attitude toward state government was a radar screen, the little blip marked "confidence" probably has disappeared from view. And the reasons for it are myriad. Corruption unearthed in an FBI sting operation conducted inside the Capitol ensnared legislators, lobbyists and staffers. The economy has been blistered by defense cutbacks, an unemployment rate higher than the national average, a tidal wave of illegal aliens, a never-ending series of fires, floods, drought and earthquakes, and human maelstromes such as the Los Angeles riots. When dealing with all of this, political institutions often seem mired in gridlock and unable to cope.

Thus, the public took matters into its own hands, using a process of "self-government" established more than 80 years ago — the initiative. Beginning with Proposition 13's overhaul of the property tax system in 1978, voters systematically restructured state political institutions and changed forever the way state and local governments funded themselves. They also put a cap on the amount of time state elected officials may serve in office.

But a growing number of critics feel that the initiative process, set up to curb the influence of special interests on government, has become instead a tool for those interests. Critics also feel that the laws that emerge from the initiative

Charles Price is a professor of political science at California State University, Chico, and a frequent contributor to California Journal.

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system are flawed. And they want the process overhauled.

The initiative — together with its cousins, the referendum and the recall — first saw the light of day in California back in 1911 when Progressive Governor Hiram Johnson led the charge to write them into the state Constitution. Initiatives allow voters the right, via the petition process, to propose and enact laws and constitutional amendments, and, by so doing, bypass the Legislature and/or governor.

Initiative critics, including elected officials and academicians, point to a number of problems with the current system.

- Initiatives are often authored by special interests or by ambitious politicians, not by average citizens, as Johnson intended.
- These measures are filed and approved for circulation without any in-depth analysis. Although the attorney general makes sure proposals don't violate the constitution, many slip into circulation with drafting errors or are flawed in other ways that must later be sorted out in court.
- Most initiatives qualify for the ballot through the work of professional petition firms rather than the efforts of volunteer citizens.
- Initiative propositions are laden with legalistic jargon, making them difficult to understand for the average voter.
- So-called "counter-initiatives" — two proposals on the same subject and the same ballot — often complicate the voter's ability to sort among conflicting measures.
- Initiatives add to the length of the ballot and number of decisions facing voters.
- Propositions are packaged into deceptive campaigns by slick professional campaign consultants.
- Finally, initiatives, once approved by voters, are amended with great difficulty.

Beyond these problems, a succession of fiscal initiatives have severly hampered the governor and Legislature's ability to provide fiscal leadership — or even craft a budget. Included in this group are Proposition 13's 1978 property tax relief; Proposition 4 of 1979, which imposed government spending limits; Proposition 6 of 1982, which abolished property and gift taxes; Proposition 62 of 1986, which required a two-thirds vote before cities may raise taxes; and Proposition 98 of 1988, which mandated a minimum funding level for K-14 public schools.

Finally, voter adoption of Proposition 140 in November 1990, the harsh term limits and legislative budget reduction initiative, was for many legislators, especially Democrats, the "last straw."

Thus, over the last several legislative sessions, various Democratic legislators have proposed "reforms" to stem the initiative tide: raise the filing fee from $200 to $1000, require that signatures be collected in a specific number of counties, increase the percent of signatures needed to qualify an initiative or require that the percent be geared to registered voters not to the total vote cast for governor at the last election, the current requirment. This proposal would double the number of required signatures (currently 615,958 for a constitutional amendment and 384,974 for a statute). Yet, none of these proposals passed even though Democrats had secure majorities in both houses.

Restrictions on the initiative process fail for a number of reasons. First, conservative Republicans are wary of undercutting a process they often have used with great success. Term limits, for instance, was proposed by former Assemblyman and former Los Angeles County Supervisor Pete Schabarum — a Republican conservative. Second, polls repeatedly show that the public supports the initiative process. And although that support has declined over the last several decades, it still is backed by more than 60 percent of the electorate, according to *The Field Poll*. Third, an alliance of interests united to help protect the initiative during the 1991-92 legislative session. This "Initiative Coalition" included political watchdogs such as Common Cause and the League of Women Voters, environmental groups such as the Planning and Conservation League and the Sierra Club, and conservative anti-tax groups such as the Howard Jarvis Taxpayers Association, People's Advocate (founded by the late Paul Gann), and Paul Gann's Citizen Organization. The coalition opposed restricting the initiative process because its members had successfully sponsored initiatives and were reluctant to see the process dismantled. Moreover, the Jarvis and Gann groups have used the initiative process as a money-making tool to help fund their activities.

One significant initiative reform emerged from the 1991-92 session, however — Democratic Assemblyman Jim Costa's ACR 13, which established a 15-member Citizen's Commission on Ballot Initiatives to study the process and propose possible remedies. Under ACR 13's provisions, the governor, Assembly speaker and Senate Rules Committee each selected four

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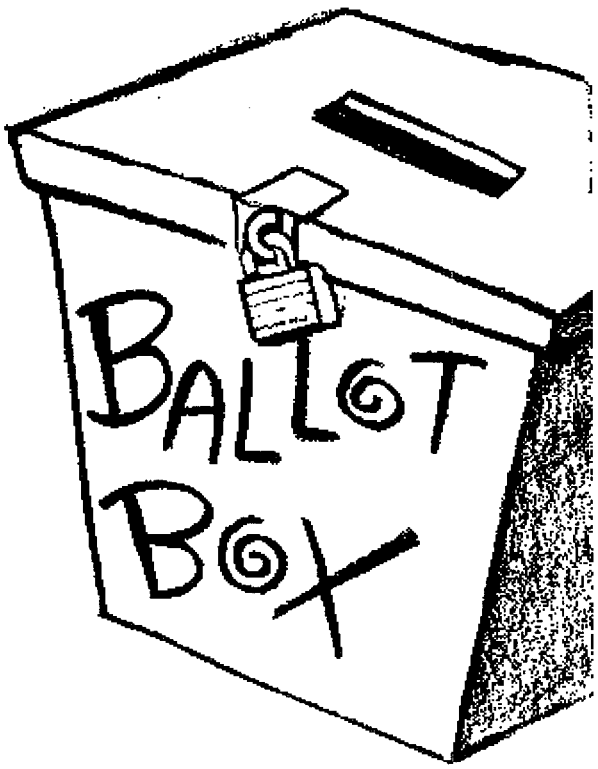
members, with appointees a reflection of the state's diverse population. The commission also included a designee of the secretary of state, attorney general and president of the County Clerk's Association. Retired Legislative Analyst A. Alan Post, one of the most respected former officials in the state, was selected to chair the commission.

The commission met periodically during spring 1993 to listen to various initiative experts recommend initiative reforms and to formulate a proposal. Two experts in particular played key roles in framing the commission's deliberations: attorney Robert Stern, former counsel to the Fair Political Practices Commission and author of "California's Fourth Branch of Government;" and Floyd Feeney, a University of California, Davis, law professor and co-author of "Improving the Initiative Process: Options for Change." The "Initiative Coalition" also provided input.



In the end, the initiative process gained a vote of confidence from the commission, although there was substantial consensus that it had some problems. As Post commented, "I don't think that commissioners felt the initiative process should be constrained nor that it was overused. The intent was to make it a better instrument." Post and his colleagues agreed a comprehensive package of initiative reforms was needed and, in January 1994, they presented their recommendations to the Legislature. Costa packaged these recommendations into an omnibus initiative reform bill introduced in February 1994.

The most dramatic change proposed by the commission involves reinstitution of a modified "indirect initiative." Currently, initiatives that qualify go "directly" to the next statewide ballot. The commission would detour those measures by requiring that qualified initiatives first go to the Legislature for evaluation.

Under an "indirect" system, sponsors of an initiative would have 180 days (30 more than under the current system) to circulate petitions and gather enough signatures to place their proposal on the ballot. But instead of going before voters at the next statewide election, the proposal instead would be sent to the Legislature, which would have 45 days to act on it. Lawmakers would hold hearings where proponents and opponents could testify. Lawmakers also would negotiate with sponsors to iron out flaws or correct drafting errors. Sponsors then could amend the measure as long as the amendments were consistent with the "purposes and intent" of the original proposal. Each house would vote on the initiative and — if the Legislature passed and governor signed it — it would become law without going before voters. The governor and Legislature also could adopt their own law on the same subject, and proponents could choose to withdraw their proposition if satisfied with the effort. If, however, the governor and lawmakers reject a qualified initiative, it automatically would be placed on the next statewide ballot, where it would become law if approved by voters. If a statute, the Legislature subsequently could amend it after three years by a two-thirds vote of each house. Constitutional amendments could not be amended by the Legislature.

There are advantages to this approach, the commission argued. For one, proponents would have a little more time to qualify

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their petitions, and this might encourage more volunteer rather than paid signature collecting. More important, it would provide a mechanism for revising initiatives after they have been filed. Today, qualified measures go on the ballot, period. The commission's plan, however, would allow for hearings, complete with bill analyses, review and amendments. Oversights, ambiguities and gaffes in the initiative text could be corrected. For example, opponents of Proposition 165, sponsored in 1992 by Governor Pete Wilson to reform welfare and the budget process, focused on one significant drafting error: Although the proposal gave the governor emergency fiscal powers, the Legislature was not given the power to override his decisions. George Gorton, Governor Wilson's initiative campaign manager, admitted to the drafting flaw but contended the courts would take care of it. This could have been avoided had the commission's format been in force because Wilson would have had the opportunity to amend his proposal.

There are problems with the commission's recommendations, however. Hiram Johnson sought a procedure that would bypass a gridlocked or special interest-dominated Legislature. The proposal puts the Legislature back in the loop. Also, from 1911 to 1966, the California Constitution included both a direct and an indirect initiative, but the latter device was rarely used. Finally, *The Field Poll* reported in 1990 that 50 percent of Californians opposed the indirect initiative, while only 41 percent favored it. Also, if initiatives never reached the ballot, it would mean less money-making opportunities for campaign consultants.

In addition, opponents often want proposals killed, not amended, and see their best chance at the ballot. In this vein, they might not want to tip off proponents to drafting errors at a legislative hearing but would rather spring these shortcomings on proponents later in the campaign.

The Post Commission also included a smorgasbord of other fine-tuning reforms, including additional contribution disclosure statements, improved signature-verification procedures, better ballot design, and full disclosure of the top five contributors to the proposition.

The commission, however, did not deal with the role of money in the initiative process. Court rulings mostly have preempted the subject. Powerful groups like the California Teachers' Association or the tobacco industry are in a better position to qualify their proposals than is, say, an animal rights' group because wealthy organizations can spend a lot of money on professionals to collect the required number of signatures. The U.S. Supreme Court ruled in 1988 in *Meyers v. Grant* that states can not prohibit paid petitioning because the ban limits free speech.

Clearly, the side with the most campaign money, particularly if it's by more than a two-to-one or three-to-one margin, has a better chance of winning at the ballot box. This advantage is even more enhanced in the 1990s because the "fairness doctrine" — which once required radio and television stations to provide some free air time to proponents or opponents of propositions with modest financial resources — is, at present, dead. Yet courts also have ruled that attempts to set contribution or expenditure limits also violate free speech.

The contemporary initiative process seems to work. Since the 1970s, only about 20 percent of the filed initiatives actually qualified for the ballot. Of these, only about one-third were approved by voters. If "too many" initiatives get on the ballot, or if initiatives are too lengthy or complex, voters tend to play it safe and vote "no." Thus, in effect, the initiative process already has a self-correcting mechanism.

For his part, Costa has pushed ahead with plans to author legislation to implement some commission recommendations. At the end of February, the Fresno lawmaker introduced AB 3181, which incorporates those recommendations that received unanimous support from the commission. Among the bill's provisions are the requirement for legislative hearings on proposed initiatives, a procedure for proponents to amend their measures, an extension of the circulation period, an improved signature-verification system, and provisions for additional campaign statements.

Costa also introduced ACA 40, which puts provisions of AB 3181 before voters. Both bills are headed for their debut before the Assembly Elections and Reapportionment Committee. Randall Henry, a senior consultant to Costa, expressed guarded optimism about the fate of the two bills, saying that Costa packaged only those recommendations that had been given unanimous approval by the commission, with its varied representation.

Still, Costa's success could depend on how lawmakers perceive declining public support for the initiative, legislative anger over term limits and support from the Initiative Coalition.

Meanwhile, the public seems to be in for a breather — the June 1994 ballot contains only one initiative.

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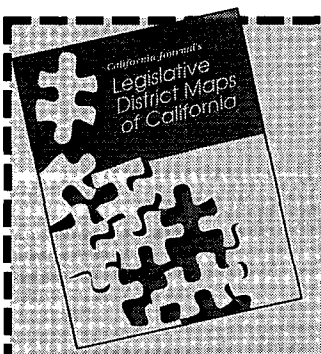

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California's congressional delegation heals its own fault lines — for a change

By Herbert A. Sample

The Northridge earthquake that tore apart freeways, tumbled parking garages and pancaked apartment complexes early in the morning of January 17th actually did some mending as well. The healing took place 2600 miles away in Washington, D.C., where the push to win several billion dollars in federal disaster relief brought together the notoriously fragmented California congressional delegation.

For a while, at least.

This year is, after all, an election year. And the stark political and ideological differences that characterize the 29 Democrats and 23 Republicans who make up the state's delegation in the House of Representatives have not suddenly disappeared. But for a few days in late January and early February, Californians played key roles in keeping the disaster-aid legislation moving and demonstrated an ability to work together to win federal largesse for their state.

"I think this was a real bellwether," declared Gary Hunt, a board member of the California Institute, a business-backed organization that focuses on state issues in Washington. "I hope it was indicative of the continuing close working relationship of the delegation."

Said Congressman David Dreier, a Republican from Covina, after Californians recorded a rare unanimous vote when the House approved $7.8 billion in federal disaster aid, "I'd like to think of that ... vote as the silver lining in the cloud of the earthquake."

When the White House on January 25th first proposed a so-called "supplemental appropriation" bill to fund federal disaster efforts in the Los Angeles area, its prospects appeared very bright. For one, the devastating nature of the quake had been reported throughout the country. Second, Congress traditionally had come to the aid of regions struck by disasters — especially those in politically vital states like California and Florida.

The bill also had a built-in political advantage in that the Los Angeles area sported some of the most powerful members in the House — veterans who know how to use their influence to make things happen on Capitol Hill. They include Democrats Henry Waxman, chairman of the health subcommittee of the Energy and Commerce Committee, and Anthony Beilenson, a top member of the House Rules Committee — as well as Jerry Lewis, the ranking Republican on the subcommittee of the House Appropriations Committee that allocates funds to the Federal Emergency Management Agency.

But soon after President Bill Clinton submitted the measure, rumblings were heard that a partisan coalition of House members would attempt to finance it by cutting current federal spending. A similar proposal backed by the same coalition was nearly successful last year when the House considered a disaster-aid bill for the Midwest floods.

One of those doing the rumbling was Congressman John Doolittle, a Republican from Rocklin, who was planning to circulate a letter among his California colleagues asking for support in a spending-cut effort. A strong conservative, Doolittle said he supported providing the aid to quake victims, but believed its cost should not be added to the nation's budget deficit and, therefore, its long-term debt. But just as Doolittle was prepared to begin, he found himself cut off at the pass by Los Angeles Democrat Howard Berman,

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who had already convinced three dozen California House members, including eight Republicans, to sign a letter to President Clinton that supported the idea of adding the aid's cost to the deficit.

There still was strong support for offsetting cuts among most of the other 15 California Republicans, as there was among House Republicans in general. That sentiment set off warning bells in the state's business community. The California Business Roundtable, a politically influential group of top officers in some of the state's largest corporations, got wind of how many in the California GOP contingent were feeling. In response, the group organized a letter-writing campaign in which the heads of such firms as Irvine's Fluor Corporation and Palo Alto's Hewlett-Packard urged several members of the state's House delegation to avoid the spending-cut issue.

"You may be under pressure to seek cuts in the current federal budget to offset the ... relief package," wrote Richard Rosenberg of Bank of America in a typical letter. "Please let members of Congress from other states raise this issue so that the California delegation can stand firmly together on the relief package."

Tom Dennis, vice president of Southern California Edison, whose chief executive wrote a similar note, said the business community "wanted to let Congress know that this [wasn't] the time to fool around with other things."

Meanwhile, another potentially divisive issue was percolating — illegal immigration. Last year, many of the California's GOP House members repeatedly criticized the impact undocumented immigrants were having on the state. With 1994's first appropriation bill coming down the pike — for disaster relief or not — they saw an opportunity to further their cause.

So when the Democrat-controlled Appropriations Committee took up the quake aid measure, Republican Ron Packard of Carlsbad pressed for an amendment to ban some disaster aid to undocumented immigrants. That put House Democrats in a touchy spot. If they refused Packard's amendment entirely, a floor fight was virtually assured and they were not sure they could win it, explained Don Edwards, the San Jose Democrat who is dean of the state's delegation.

"We couldn't in good conscience take what [the Republicans initially] offered," Edwards said. "If the GOP's original proposal had come to a vote, it would have passed 400 to 35." Yet liberal Democrats would have been enraged if Packard's amendment won a place in the measure, which would have threatened the bill's speedy passage. So, although Democrats had unceremoniously dumped such proposals in the past, key Democrats this time sought a compromise with Packard. After private negotiations among at least three committee members — Packard and Los Angeles Democrats Julian Dixon and Esteban Torres — the proposal was clarified to apply only to long-term aid. The committee, with several Democrats voting "aye," went along with it.

After that controversy was averted, attention returned to the spending-reduction issue. Democrats, with the exception of Gary Condit of Ceres, were united in opposing cuts. A few Republicans — such as Lewis and Howard McKeon of Santa Clarita, whose district includes the quake's epicenter — also didn't like the idea of financing the bill through spending cuts for fear the measure would get bogged down.

But most of the California GOP, despite the letters from the CEOs, held firm for cuts. When House Democratic leaders found through vote counts that a spending cut amendment of several billion dollars could pass, Democrat Vic Fazio of West Sacramento, who is the fifth-ranking House Democrat, offered a smaller, $2.5-billion alternative.

When it came time to vote, two proposals containing large cuts failed, despite the substantial backing of most California Republicans. A few moments later, Fazio's amendment passed overwhelmingly. And when the House considered final passage of the bill, the state's delegation unanimously voted "aye."

In the Senate, where both of California's senators are Democrats, there was little if any wrangling. The measure sailed through the Senate Appropriations Committee with help from a junior member, Dianne Feinstein. Her colleague, Barbara Boxer, also pushed for the aid on the floor, where it passed overwhelmingly.

Whether the ability of the California delegation to smooth over its differences on the quake measure is a sign of a permanent change in its character is debatable. For example, there were lingering complaints within Republican ranks that Lewis went too far in his vocal and repeated criticism on the House floor of the spending-cut amendments. Cut from old-line Republican cloth, Lewis has not been a favorite among his more staunchly conservative GOP colleagues, particularly those from California. He was removed from a leadership position two years ago largely because he was perceived to be too accommodating.

"They don't think Jerry's pitch was consistent with the viewpoint of most Republicans, let alone most California Republicans," Doolittle said after the quake aid vote. "He and Vic Fazio were even repeating word-for-word some phrases like 'the law of unintended consequences.' This is not what I want, and I don't think it was what the majority of Republicans want."

Others were more understanding. They noted that as a key member of the Appropriations Committee, Lewis is expected to defend both the panel's interests and its traditional opposition to making spending decisions on the House floor, away from the committee's control. Lewis, for his part, shrugged off the complaints by saying, "It is not a requirement around here that we agree 100 percent of the time."

The jury also still is out on inter-party relations within California's House delegation. Edwards insisted that the display of togetherness on the quake bill was just the latest in a series of actions the delegation had taken on a bipartisan basis, such as on defense conversion money won last year.

But there are still deep philosophical differences within the delegation. Packard, for example, promises to tack a ban on federal spending for illegal immigrants on every appropriation bill that comes up this year. That is not likely to sit well with Democrat Xavier Becerra of Montebello and other liberal Californians who have derided the critics of illegal immigration but who grudgingly went along when the House Democratic leadership and Packard negotiated a compromise on the quake measure.

And as Dreier noted, California's high-stakes elections this year for Feinstein's seat and for the governor's office will make bipartisanship a troublesome proposition.

Still, Dreier added with a hint of hope in his voice, "We may have gotten to the point where the fires, the drought, the earthquakes, the recession, and the defense and aerospace cuts have left us with little choice but to work in a bipartisan fashion."

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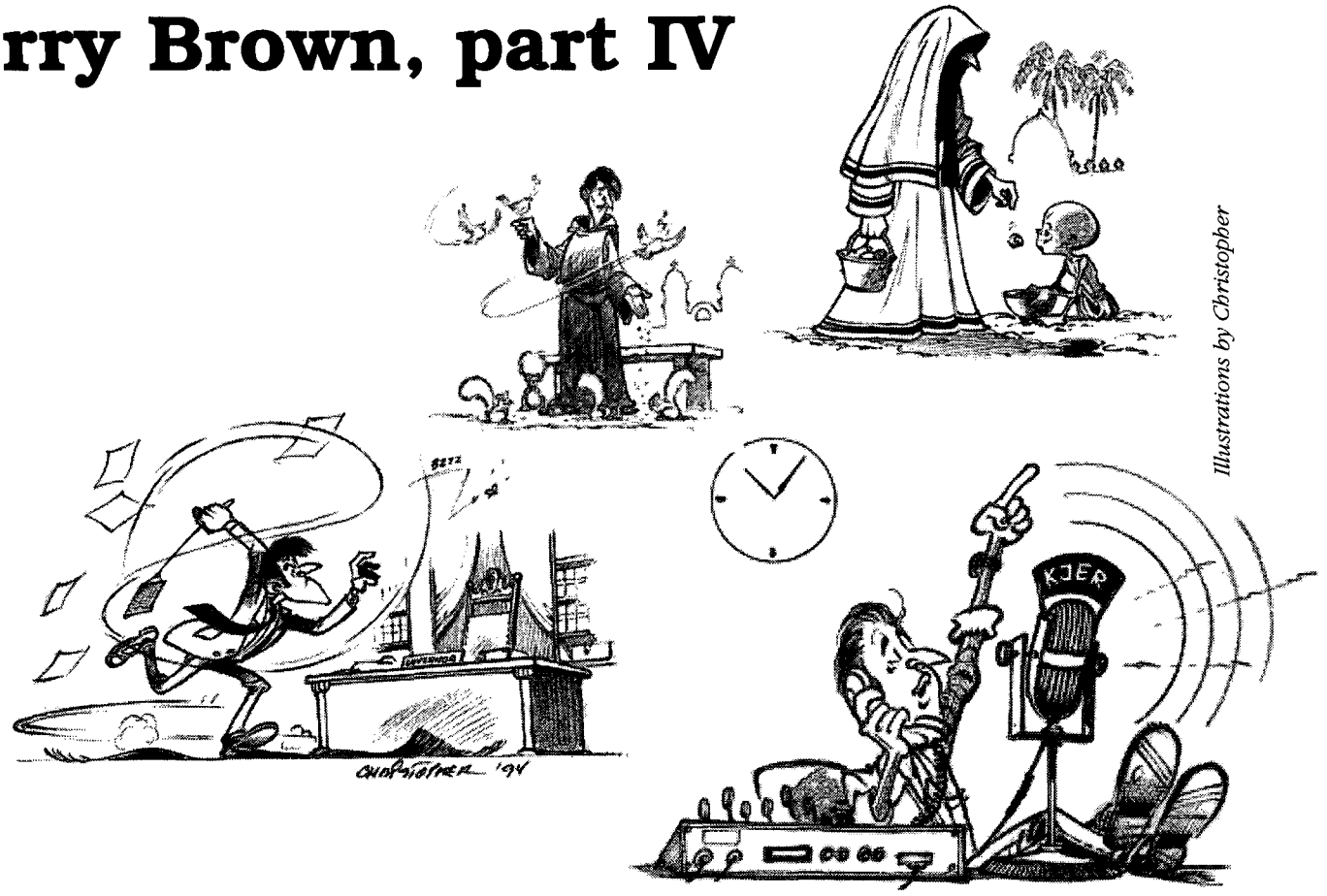
Jerry Brown, part IV



Illustrations by Christopher

Former governor launches radio talk show

By Richard C. Paddock

After all these years, Jerry Brown has finally found the perfect job. The former California governor doesn't have to manage a huge government bureaucracy. He doesn't have to appoint anyone to anything. All he has to do is talk — and every now and then give out a toll-free number.

The two-time governor and three-time presidential candidate has been reborn as a radio talk-show host. Following in the footsteps of former Los Angeles Police Chief Daryl Gates and former San Diego Mayor Roger Hedgecock, Brown has begun his own radio show, broadcasting live from Oakland for two hours every weekday.

For Brown, it is a chance to continue promoting the populist theme he brought to the 1992 presidential campaign. And, if he is successful, the show has the potential for keeping him in the public eye across the nation.

As it turns out, the man once labeled as "Governor Moonbeam" actually is quite down-to-earth in a radio booth. Sometimes witty, sometimes insightful and sometimes charming, Brown rarely is at a loss for words. Some suggest he could become a liberal counterpoint to conservative commentator Rush Limbaugh.

Reviving his message that special-interest money is corrupting American politics, Brown uses each show to pursue his main theme, hitting such issues as political reform, term limits for elected officials and preservation of the environment.

"We are going to take apart the conventional wisdom — the dumb ideas that are wrecking the country, the lies politicians tell, the greed of the corporate high and mighty, the phoniness of the wanna-be liberals," Brown says at the beginning of his broadcast. "There are no sacred cows on this show."

The one-time seminary student also seems cognizant of his controversial nature and willing to make jokes at his own expense. One woman caller told him: "I've lived in this state a long time so I know you real well."

"I don't know if that's good or bad," Brown replied.

Three dozen radio stations from Honolulu to Huntsville, Alabama, have picked up the program since it first aired February 1st. Brown has had difficulty establishing himself with major stations in Los Angeles or in the Bay Area. But there has been more interest in other parts of California than in any other single state, with stations in Sacramento, Fresno, Santa Barbara, Santa Rosa, Santa Cruz, Redding, Ukiah, Alturas and El Cerrito all carrying the program.

Richard C. Paddock is a San Francisco-based reporter for the Los Angeles Times.

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Brown calls his show "We the People," the phrase that begins the Preamble to the Constitution and also is the name of the grass-roots political organization he started in 1992. Seeking an all-American image, Brown begins the program with a country-Western theme song and a group of children reading the Preamble.

Nowadays, the 55-year-old Brown — who has a definite middle-age paunch and a growing bald spot — seems more relaxed than in the past. But he still has the riveting brown eyes, the prominent eyebrows and the sharp profile that helped make him a charismatic leader in the 1970s.

Brown says the experience of serving as Democratic Party chairman in 1990 finally opened his eyes to the influence of money. He raised millions of dollars from interest groups to help finance Democratic campaigns. At least once, he said, he called to ask for money from lobbyist Clay Jackson, who has since been sentenced to prison after being convicted on corruption charges in federal court.

"Most contributions are bribes," Brown says now.

When gubernatorial hopeful Dianne Feinstein lost to Republican Pete Wilson in 1990, Brown was stung by criticism that he was responsible for the defeat because he had not raised enough money. The experience helped him develop a new populist outlook and prompted him to run for president in 1992 on a pledge that he would accept no contribution greater than $100. Explaining his metamorphosis, Brown said, "People who work in a fish factory don't realize they stink."

The issue of campaign contributions is a frequent one for Brown on his radio show. When one caller asked if he had been influenced as governor by contributions from special-interest groups, Brown quickly admitted that he was.

"You bet I was influenced," he said. "You think you can collect $10 million or $20 million and not let it affect your judgment? Your behavior is influenced and that is the vice that is destroying us."

It would appear that being a talk-show host is the role that Brown has been preparing for all along. The son of former Governor Pat Brown, he spent part of his youth living in the old governor's mansion. Later, he studied under Jesuits before abandoning the idea of the priesthood. He first won public office as a member of the Los Angeles Community College Board, then was elected California's secretary of state in 1970.

Campaigning as a political reformer in the post-Watergate election of 1974, he was elected governor and served two terms. In some ways, he was ahead of his time, preaching an "era of limits," satellite communications and diamond lanes before many people were ready. He ran for president twice — in 1976 and 1980 — earning a national reputation for his visionary, if sometimes flaky, ideas.

But as governor, he also presided over the initial decline of the school system and received poor marks for his management of state government. In 1982, when he ran for the U.S. Senate, his standing had fallen so low that he was defeated by the then-mayor of San Diego, Pete Wilson.

Following his rejection by voters, Brown embarked on a voyage of self-examination. For a time, he grew a beard and studied Buddhism in Japan and Spanish in Mexico. He did some writing and visited Mother Teresa in Calcutta, India. He staged a comeback as chairman of the Democratic Party in 1990, but any hope he had for winning a new state office appeared to be dashed by Feinstein's loss that year and criticism of his management of the party.

Brown got started on his new radio career after he was a guest on columnist Jack Anderson's talk show last year and mentioned it was something he would like to do. Afterward, the network that carries Anderson's show, Talk America, contacted the former governor and signed him up.

"I really believe this is the avenue Jerry has been looking for for a long time," said Tom Star, a Talk America vice president who helped put the show together. "Jerry is a talk show host who is forthright, unpredictable in what he says, and who offers a program that has not been offered in the talk show world."

The program is owned by Brown's "We the People" group and is free to radio stations. Brown said he does not plan to take a salary and will pump any advertising revenues back into his organization. He sees his broadcasts as a way to broaden the populist political movement he began during his presidential campaign. He answers questions from callers, reads highlights from the day's news and uses his own experience to drive home his message. In one show, for example, he noted that when he was a political newcomer first running for secretary of state, he willingly fed at the same trough as other politicians. To get his start, Brown told one caller, "I called up my father's campaign contributors."

When he is on the air, Brown gives out the studio's toll-free number so callers can reach him. But sometimes, he can't resist broadcasting the famous toll-free number of his presidential campaign — now the number for "We the People" — and asking for contributions (still no more than $100, please).

Brown also talks about some of the people he ran across — or ran against — during his years in politics. President Bill Clinton, who defeated Brown for the presidential nomination is a frequent target. Ross Perot, former President George Bush, Oliver North and others are all victims of his wit.

Brown hopes to use the show to prompt public activism on specific issues. He happily gives out the White House phone number and urges his listeners to call Clinton to voice support for certain policies, like the production of electric cars.

"I want to stir up citizen involvement for more progressive causes," Brown explained after one broadcast. "That's what interests me. That's a pretty tall order and it's going to take a lot of allies."

Brown predicts his show will have no effect on the gubernatorial campaign of his sister, state Treasurer Kathleen Brown. "We're on a totally different track here," he said. In fact, Brown says the only ones raising such questions are Governor Pete Wilson's supporters, who would like to link Kathleen Brown with her controversial brother. Jerry Brown says the two siblings are close and talk to each other frequently. During his first day on the air, one of the calls was from a "Kathy in D.C." who turned out to be Kathleen, in Washington on state business, calling to wish him luck.

The former governor recently moved his "We the People" headquarters to a warehouse near the Oakland waterfront and is remodeling the building to include a radio studio, offices and living quarters. In his spare time, he is finishing a book he plans to call "Money, Lies and the Killing of Democracy."

But the radio show — and personally doing the research for his broadcasts — is taking most of Brown's time these days. "I'm enjoying it," he tells his listeners. "I hope you are."

Is all this simply preparation for yet another presidential campaign? Will he be tempted to seek elective office yet again? "I don't think so," he said, "but ... I obviously enjoy running for office. That's pretty clear."

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A California Journal Analysis

JUNE 1994 BALLOT PROPOSITIONS

PROPOSITION NUMBERING

In 1983, the Legislature passed a law requiring that ballot measures be numbered consecutively from election to election, starting with November 1982. Previously, each election had its own set of proposition numbers, starting with 1. But the system proved confusing. If you say "Proposition 13," do you mean the famous tax-cutting proposal of 1978, or the water-conservation measure of 1982? Since 1982, 174 proposals have appeared on various ballots, thus the current crop begins with 175. It will continue this way for another eight years, for the law mandated that numbering not start over until 2002. By the way, the June 1994 ballot is relatively thin; only six measures have thus far made it, although the Legislature is considering adding another. Only one proposition — 180 — came to the ballot via the initiative route. Two years ago, the June ballot contained only three measures. The November 1992 ballot had 13 propositions, however.

175 RENTER'S INCOME TAX CREDIT

A legislative constitutional amendment that would provide qualified renters with a minimum income-tax credit of $60 per individual and $120 for others.

Background: Until last year, anyone who rented their primary residence qualified for a renter's credit that could be deducted from their state income tax liability. In 1990 that credit was $120 for married couples, single parents and surviving spouses; $60 for individuals. But beginning in 1991, lawmakers and the governor began to impose restrictions on the renter's credit to help deal with budget deficits caused by a deepening recession. In 1991 the state prohibited some renters from receiving the credit. Couples who made over $42,500 and individuals who made more than $21,500 could not claim it from 1991 to 1995. In 1993, as lawmakers and the governor tried to deal with a third straight multi-billion dollar budget deficit, the governor proposed and the Legislature agreed to do away with the credit for everyone for 1993 to 1994. In 1995, the credit again will be available for all but upper-income taxpayers. In 1996, all income levels again will be eligible for credit.

Proposal: Proposition 175 amends the state Constitution by enforcing a minimum renters' credit of $120 per married couple and $60 per individual. As of January 1, 1995, all eligible renters, regardless of income level, could receive credit. Proposition 175 authorizes the Legislature to amend and adopt credit-related statutes. More important, the measure requires a vote of the people before the credit may be eliminated, suspended or limited in the future. This proposal carries an estimated cost of $100 million for the 1995-1996 fiscal year.

Arguments For: Supporters — including Democratic state Senator David Roberti, Californians for Fair Taxes and the directors of California Tax Reform Association, Coalition for Economic Survival, California State Student Association and Congress of California Seniors — argue that this measure gives the renter's credit the same level of protection as the homeowner's property tax exemption.

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Arguments Against: Opponents — including Republican Assemblyman Paul Horcher and the California Taxpayers Association — argue that California cannot afford to give away millions for a "double-dip" benefit. They argue that renters already benefit from the 1978 Proposition 13 because property tax relief trickles down to them in the form of lower rent payments.

176 TAXATION: NON-PROFIT ORGANIZATIONS

A legislative constitutional amendment that would exempt qualifying non-profit organizations from locally imposed business license taxes or fees measured by income or gross receipts.

Background: Presently, cities and counties may impose taxes and fees on individuals and businesses to maintain local government operations. Taxes may be levied as a percentage of payroll, or based on statistics like the number of a business' employees. Although virtually no local governments actually apply the business license tax to non-profits, current law grants broad taxing authority to local governments. As cities and counties become squeezed between the need to provide services and the search for cash to fund those services, they could begin to tap previously unexplored sources of revenue — namely, non-profits doing business within their jurisdictions.

Proposal: Proposition 176 exempts non-profits from local government business license taxes or fees based on income or gross receipts. Legally, local governments maintain authority to tax non-profits through standards other than income and gross receipts. Since few, if any, local governments actually impose business license taxes on non-profits through these means, this amendment is expected to have little fiscal impact.

Arguments For: Proponents of 176 include Democratic state Senator David Roberti, as well as leaders of United Way of California, California Council of Police and Sheriffs, American Lung Association of California and the California Capitol Chapter of the National Association of Fund-raising Executives. They argue that 176 ensures that non-profits enjoy the same local tax exemption that they already have with state and federal governments. Supporters say this measure helps non-profits provide the community services that government does not provide. If local governments imposed business taxes on non-profits, these groups would be forced to reduce services and raise fees, they say.

Arguments Against: Opponents of 176, including attorney Gary Wesley, explain that the definition of a non-profit is vague. Not all non-profits are charitable, Wesley says. Opponents also argue that the measure could rob local government of its ability to provide necessary services by placing constraints on already tight budgets.

177 PROPERTY TAX EXEMPTION; DISABLED PERSON'S ACCESS

A legislative constitutional amendment allowing the Legislature to exempt from property taxes the modification, construction, installation or removal of a building or structure for disabled persons' access.

Background: Local property taxes are based on a given property's assessed value. When an owner improves his or her property, the property is typically reassessed at a higher value. As property value increases, so do property taxes. Currently, improvements such as fire-detection equipment are exempt from property taxes. The 1990 Americans with Disabilities Act (ADA) requires commercial property owners to improve their restaurants, hotels, and places of business by eliminating structural access barriers for people with disabilities. In the past, lawmakers have gone to voters to provide other property tax exemptions as well.

Proposal: Since numerous property owners are making ADA accessibility improvements, their property could be reassessed at higher values. This measure ensures that any increased value resulting from such improvements is exempt from increased taxation. The exemption applies only to improvements made on or after June 7, 1994. In the case of new ownership, property is reassessed at its full value, including ADA improvements. The fiscal impact of this measure could reach $10 million annually.

Arguments For: Democratic state Senator Henry Mello, Democratic Assemblyman Dan Hauser and representatives for the National Multiple Sclerosis Society, California State Council of Laborers, California Association of Persons with Handicaps and Californians for Equal Access back Proposition 177. They argue that this measure promotes a fair taxation system by allowing property owners to make renovations for the disabled without incurring extra taxes. In addition, it parallels a homeowner tax exemption voters approved in 1990.

Arguments Against: Attorney Gary Wesley and homeowners Gayle and Richard Roseman argue that Proposition 177 merely scratches the surface of a huge property tax imbalance. Reassessment has shifted the tax burden from commercial owners to homeowners and renters, they say. Opponents of this measure insist that the 1978 Proposition 13 must be overhauled comprehensively, rather than providing piecemeal exemptions, as this measure does.

178 PROPERTY TAX EXCLUSION; WATER CONSERVATION EQUIPMENT

A legislative constitutional amendment that excludes from property taxes the installation of water-conservation equipment for agricultural purposes.

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Background: This measure dovetails with Proposition 177 by providing another property tax exemption for improvements to property; in this case, the improvements would help conserve water used for agriculture (see previous measure). Under the provisions of the 1978 Proposition 13, which overhauled California's method of assessing property taxes, when an owner improves his or her property, the county reassesses the parcel and charges more taxes. Depending on the improvements, the increased tax burden could be substantial. But over the years, voters have allowed a number of property tax exemptions, and they have been particularly sympathetic when improvements have been forced on property owners by the government, even though the value of the property increased.

Proposal: Under Proposition 178, a property owner who installs certified water-conservation equipment for agricultural purposes receives a property tax exemption on the related improvement. New ownership of the property means reassessment of the property's full value, however, including new equipment. This measure's fiscal impact could affect government funding by as much as $10 million annually in future years.

Arguements For: Proponents — including Democratic state Senator Mike Thompson and leaders of the California Farm Bureau Association, Planning and Conservation League and Association of California Water Agencies — argue that this measure helps California prepare for another drought while, at the same time, creates jobs with the installation of more environmentally and economically efficient systems. In addition, supporters believe water-conservation exemptions are in accord with previously approved propositions regarding solar and fire-detection property tax exemptions.

Arguments Against: Republican Assemblyman Gil Ferguson and Democratic Assemblywoman Debra Bowen say Proposition 178 is a special-interest tax break for farmers, one that only marginally benefits agriculture while greatly harming the state's emergency services and schools. In addition, opponents argue that farmers who install new, efficient equipment already save money without an additional tax break.

179 MURDER: PUNISHMENT

A legislative initiative amendment that provides a 20-year-to-life sentence for the conviction of second-degree murders committed in drive-by shootings.

Background: California law classifies murder in two

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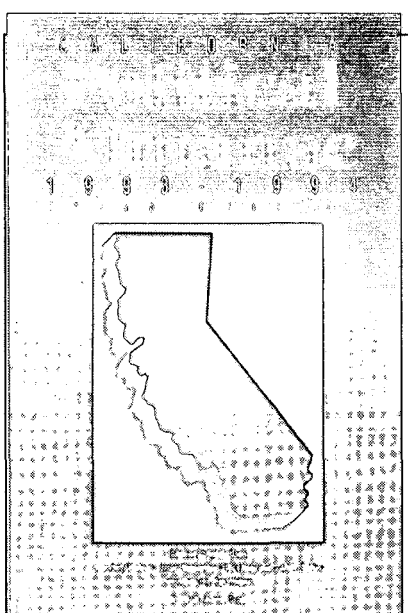

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degrees — first and second. First-degree murder is premeditated and/or occurs during other crimes such as arson or rape. Murders not defined as first-degree are second degree and punishable by 15-years-to-life in prison with the possibility of parole.

Proposal: Proposition 179 in effect increases the penalty for second-degree murder if that killing occurs during a drive-by shooting. This new sentence is five years longer that the minimum 15-year sentence for second-degree murder. Fiscal impact is unknown but estimated to be low.

Arguments For: Proponents of Proposition 179 include Governor Pete Wilson, Attorney General Dan Lungren, Democratic state Senator Ruben Ayala, Assemblyman and Attorney General candidate Tom Umberg, the California District Attorneys Association, California Peace Officers Association, California Police Chiefs Association, California State Sheriffs Association, California Council of Police and Sheriffs, Women Prosecutors of California, and a host of city and county law-enforcement officials and organizations. They argue that the measure is a useful tool to deter and fight the thousands of drive-by shootings in California. Last year, Wilson signed an Ayala bill that made it easier to classify drive-by murders in the first degree. Proponents say 179 cracks down on drive-bys by re-inforcing Ayala's existing law.

Arguments Against: Thus far, no one has stepped forward to oppose Proposition 179.

180 PARK LANDS, HISTORIC SITES, WILDLIFE AND FOREST CONSERVATION BOND ACT

An initiative statute that authorizes bond issuance of nearly $2 billion for the acquisition, development and conservation of designated areas throughout California.

Background: California has a history of purchasing, protecting and improving park, wildlife and natural areas. By selling general obligation bonds, the state has frequently given money to local governments and nonprofit agencies for the purpose of environmental protection and maintenance. Since 1984, voters have authorized about $1.3 billion in general obligation bonds for parks and wildlife. Since December 1993, all but $10 million has been used for specific projects. Proposition 180 differs from many of those efforts, however, because it is an initiative. In the past, park bond measures — as have nearly all bond measures — have been put on the ballot by the Legislature. But in this era of restricted budgets, environmentalists have decided to put bond measures on the ballot themselves rather than wait for the Legislature, which may be reluctant to raise money for these purposes during a recession.

Proposition 180 parallels an earlier measure–Proposition 170, approved by voters in 1988. Like the current proposal, Proposition 170 was a park–and–wildlife bond

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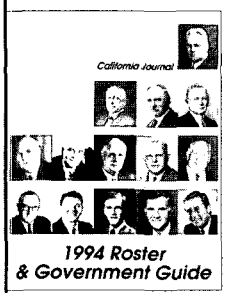

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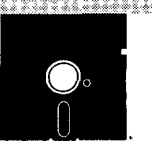

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placed on the ballot via the initiative rather than by the Legislature. A first-of-its-kind, Proposition 170 generated its share of controversy. To gather support for the proposal, proponents sought pledges of support from those who might benefit from its provisions. Critics charged that this tactic amounted to bribery that might be illegal under other circumstances. In 1991 state Senator Quentin Kopp, a San Francisco independent, sponsored legislation (SB 424) that required a bond-initiative proponent to submit written disclosures of all projects that had been included in the initiative in exchange for campaign contributions. The bill eventually became law, but was overturned by courts in 1993. The state is appealing to have it reinstated.

Proposal: Proposition 180 allows the state to sell almost $2 billion in general-obligation bonds for state agencies to dedicate to parks, historic sites and wildlife areas. The measure also provides funds for non-profit organizations and local governments committed to the same cause. The money will be broken down as follows: $926 million for parks and recreation, $479 million for the Wildlife Conservation Board, $357 million for the State Coastal Conservancy and $236 million for other state, local and non-profit agencies. Typically, general fund revenues pay for general obligation bonds. Yet $2 billion is not the actual pricetag; interest must be taken into account. With an average interest rate of 6 percent, direct costs would accumulate to $3.6 billion or $142 million per year for 25 years. In addition, administrative, operation and maintenance costs are expected to add millions annually.

Arguments For: Proponents include the National Audubon Society, Los Angeles Police Chief Willie Williams, California Nature Conservancy, California Park and Recreation Society, Planning and Conservation League and leaders of California Association of Local Conservation Corps, California Organization of Police and Sheriffs, Save the Redwoods League, California Association of Local Conservation Corps, League of Women Voters and California State Park Rangers Association. They argue that providing more funds for parks and wildlife makes neighborhoods safer by reducing gang activity and providing at-risk youth job opportunities. In addition, such a measure helps protect California's natural resources such as the redwoods and the wetlands.

Arguments Against: Opponents include Taxpayers Against CALPAW '94, former California Parks and Recreation Director Henry Agonia, wildlife biology professor Walter Howard and leaders of Regional Council of Rural Counties, Paul Gann's Citizens Committee, Howard Jarvis Taxpayers Association and Center for the California Taxpayer. They say California simply cannot afford $3.6 billion for parks when there are more urgent priorities such as earthquake relief, law enforcement, education and job creation.

Compiled by Liv Williams

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Washington PERSPECTIVE

By Larry Liebert

DiFi and the balanced budget

When we met in this space last month, it was to examine the U.S. Congress' magnanimity in voting $7.8 billion in aid to victims of the Los Angeles earthquake. That congressional debate planted the seeds of another, very different debate — over the long-promised, much-disputed constitutional amendment to require a balanced federal budget.

WHILE SUPPORTING THE QUAKE AID, Senate Appropriations Committee Chairman Robert Byrd, a West Virginia Democrat, put down a rhetorical marker in his long crusade against the balanced-budget amendment. "You can't have it both ways," Byrd said of the emergency assistance that was "off budget," exempted from congressional budget limits. "You can't vote for billions of dollars to pay for disasters and then weld a balanced budget into the Constitution."

Byrd did not address that typically stern admonition at anyone in particular, but many of his listeners had an inkling he may have been aiming it right at California's Senator Dianne Feinstein.

Democrat Feinstein campaigned for the Senate as an emphatic advocate of the balanced-budget amendment that had long been a favorite rallying cry of conservatives such as Ronald Reagan. Along with her tough-talking support of the death penalty, it was a politically invaluable signal to voters that she was not some old-fashioned, bleeding heart, free-spending liberal. Once she was elected, however, life became more complex than it seemed on the campaign trail, as it so often does.

Feinstein won a prized seat on the Appropriations Committee, which does all the real spending in Congress. But her support of the balanced-budget amendment made her something less than a favorite new pupil to its powerful chairman, Byrd, and that has raised doubts about her ability to bring home pork-barrel benefits to her home state. Byrd views the balanced-budget amendment not only as an affront to the majesty of the Constitution — the history of which he recites in agonizing detail at every opportunity — but as an assault on the authority and power of his beloved Senate.

When the Senate took up the balanced-budget amendment, Feinstein did not address anyone in particular as she attempted to reconcile her support for that spending curb with her previous support for emergency earthquake aid. But many of her listeners had an inkling she was responding to Byrd.

"People have said to me: You come from California and you supported an amendment for earthquake disaster relief that was off budget," Feinstein said. "Yes, I did. Disaster relief for floods was off budget. Disaster relief for Hurricane Iniki was off budget. So why should California be treated any differently? That is why we need an amendment to make everyone play by the same rules.... Without a balanced-budget amendment, a balanced budget just is not going to be achieved."

But Feinstein's ringing defense of the balanced-budget amendment on the Senate floor came only after some maneuvering — and some momentary wavering. In mid-February, Feinstein told one reporter that she was having some second thoughts. "I think a balanced-budget amendment is a good idea. But is it realistic?" she asked. She later amended that, saying she wasn't "reconsidering" her position but was worried that health-care reform might not be affordable within the limits of the constitutional amendment.

Clearly, a flip-flop on Feinstein's commitment to the balanced-budget amendment would have been devastating in her re-election effort this year. But Senate Democratic leaders did give her and other members a custom-crafted opportunity to hedge their positions. It came in the form of an alternative balanced-budget amendment offered by Democrat Harry Reid of Nevada that would have opened gaping holes in the anti-deficit measure. It barred use of Social Security trust funds to eliminate the deficit, allowing Feinstein and others to emphasize they weren't out to balance the budget on the frail backs of senior citizens. But it also provided an escape hatch from balancing the budget during a recession and another to exempt from the balancing act anything that could be lumped into a separate "capital budget."

Even before senators debated the Reid amendment, they knew the political calculus of the situation: Republicans as well as many Democrats strongly opposed the watered-down version, guaranteeing it would fail. Knowing that, some Democrats could use a vote for it as cover to turn around and vote against the main, undiluted balanced-budget amendment that was sponsored by bow-tied Illinois Democratic Senator Paul Simon. As it turned out, California's other senator, Barbara Boxer, was one of seven Democrats who took the Reid gambit, voting for his version and then against Simon's main balanced-budget amendment.

But Feinstein first voted for the Reid version, insisting, "I am not voting for this amendment for any kind of fig leaf. I am voting for it because I think it is a better, more rational way to accomplish the purpose." Once the Reid amendment failed, 22-78, she kept her campaign promise and voted for the full-fledged balanced-budget amendment. The Senate voted 63-37 in favor of the amendment, four votes short of the two-thirds majority required to rewrite the Constitution.

POLITICAL NOTEBOOK: When a contingent of California legislators journey from Sacramento to Washington each year, reporters jot down witty remarks at a luncheon hosted by Assembly Speaker Willie Brown Jr. The speaker usually has some wickedly biting criticism of national leaders, including those of his own Democratic Party. That's why it was striking to hear him gush on this year's visit about the "incredible, innovative kinds of things" being attempted by President Clinton.

Asked about Clinton's frequent trips to California, the state that he will need most of all if he is to win a second term, Brown said, "Every day of his life I want him to campaign in the state. I think Bill Clinton's presence in the state is just awesome ... Every Democrat out there is scrambling to get as close to Bill Clinton as humanly possible."

Those who assume a dash of Machiavelli in Brown's every move may speculate that the term-limited Assembly speaker is angling for a federal appointment. Or maybe Brown is just trying to get the president to appear as a guest on the speaker's new TV talk show.

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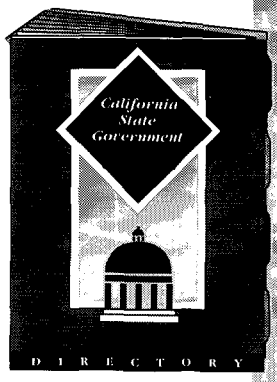

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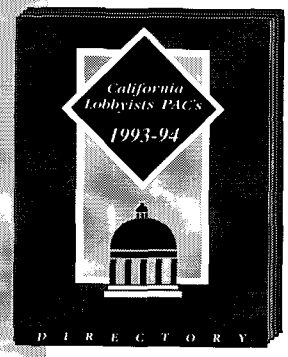

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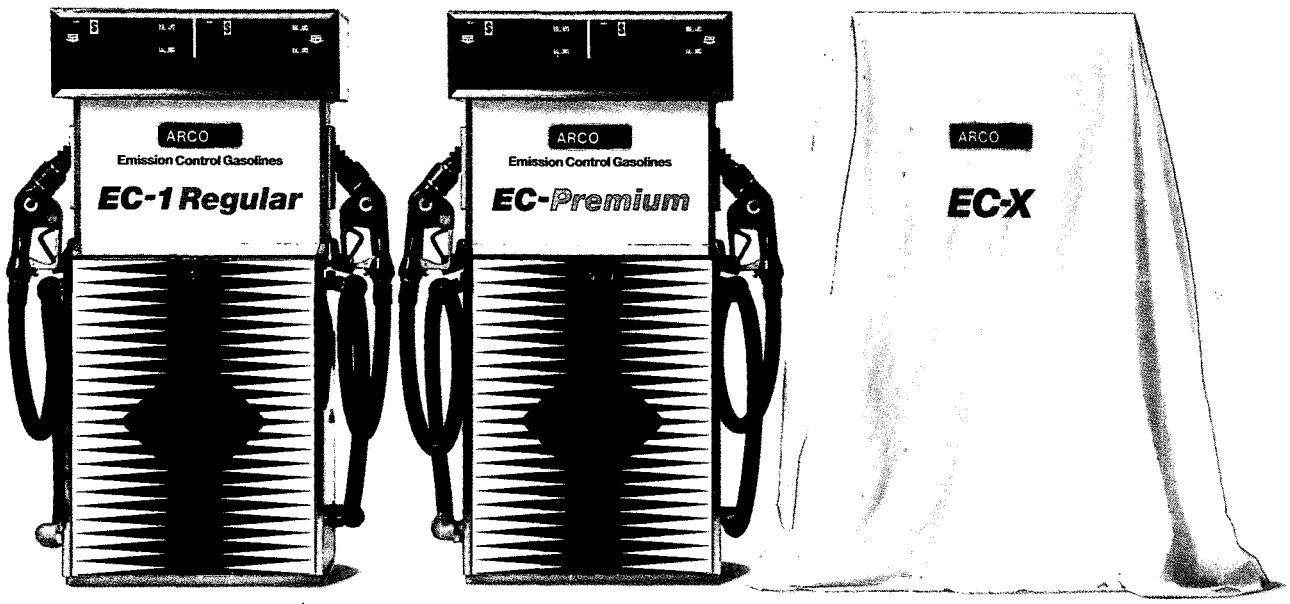

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